

No. 10368

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United States  
Circuit Court of Appeals  
For the Ninth Circuit. 6

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NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

vs.

LONG LAKE LUMBER COMPANY and F. D.  
ROBINSON,  
Respondents.

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Transcript of Record  
In Two Volumes  
VOLUME II  
Pages 349 to 700

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Upon Petition for Enforcement of an Order of the National  
Labor Relations Board

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CHARLES BRODINE,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Walker): What is your name?

A. Charles Brodine.

Q. You reside in Sandpoint? A. Yes.

Q. What is your occupation?

A. Well, since I have been here I have been working in the woods. [523]

Q. When did you next resume work there?

A. In 1939.

Q. What did you do, or about when was this when you began in 1939?

A. The latter part of May.

Q. What type of work did you do?

A. Swamper.

Q. Did you have a teamster you worked with?

A. Yes, sir.

Q. Who was it? A. Mr. Burford. [528]

Q. Do you remember the occasion of the camp closing on June 7, 1939? A. Yes, sir.

Q. Do you remember a Union meeting being held at camp? A. Yes.

Q. Did you attend that meeting? A. Yes.

Q. How did you learn that the meeting was to be held that night?

A. He came to the bunkhouse and told us to come to the meeting.

Q. Were you staying at the camp in the 1939 season? A. Yes.

(Testimony of Charles Brodine.)

Q. Did you work on the day of June 6, upon which day the meeting was held? A. Yes.

Q. Did you work the next day?

A. No more than bringing in our tools.

Q. What happened?

A. They told us to bring in our tools.

Q. Who told you that?

A. Mr. Burford told me; he said, "The boss said to bring in the tools." So we went and got them.

Q. After June 7, 1939, did you at any time work again at Caribou? [529] A. Yes.

Q. When did you next work there?

A. I don't remember the date; it was in July.

[530]

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BOYD STEVENS [536]

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Walker) What is your name?

A. Boyd Stevens.

Q. You live at what place?

A. I have been batching it there this winter.

Q. Where is your residence?

A. Kootenai.

Q. Where is that with respect to Sandpoint?

A. It is two miles north of here.

Q. What is your occupation? A. Logging.

(Testimony of Boyd Stevens.)

Q. Have you ever worked at the Caribou camp?

A. Yes, sir.

Q. When did you first work there?

A. In 1936. [537]

Q. Do you remember the incident of the camp closing down in June, 1939, on June the 7th?

A. Yes.

Q. Did you work the preceding day?

A. Before the camp closed?

Q. Yes. [542]            A. Yes.

Q. Where did you work that day?

A. What section?

Q. Yes.            A. On Section 17.

Q. Were you staying at camp during this time in June, 1939?            A. Yes.

Q. Do you remember the incident of the Union meeting that night or the night preceding the day the camp closed down?            A. Yes.

Q. That evening did you see Mr. Robinson at all?            A. Yes.

Q. About when was it you saw Mr. Robinson?

A. Just as we came in from work.

Q. Did you have a talk with him at that time?

A. He instructed us to go and get our tools; he was going to move us on to the other side.

Q. Is that what he told you?            A. Yes.

Q. Did you get your tools?

A. After supper.

Q. Did you go to the other section the next day?

A. The camp was closed down the next day.

(Testimony of Boyd Stevens.)

Q. (Trial Examiner Hektoen) Then you didn't go to the other section? [543]

A. No.

Q. (Mr. Walker) How did you learn you were not to go to Section 20 the next day?

A. How did I learn?

Q. Yes.

A. That was my instructions. He said, just go and get your tools, and he would move me over to the other side next day.

Trial Examiner Hektoen: I think he misunderstood.

Q. (Mr. Walker) The next morning following the evening when the Union meeting was held did you see Mr. Robinson? A. Yes.

Q. Where did you see him that morning?

A. It was at the bunkhouse, out in front of the bunkhouse.

Q. Was anyone with you?

A. There was a group of men there, I think.

Q. Was there anything said at the time?

A. Since we had the instructions to go and get our tools, the camp was closed.

Q. Who gave that instruction?

A. Mr. Robinson.

Q. To whom?

A. I can't say for sure, not to me directly, but we had our tools in camp.

Q. (Trial Examiner Hektoen) Was all this said to the group [544] of men standing there?

A. I would not say for sure.

(Testimony of Boyd Stevens.)

Q. Were you there?

A. Yes, I was there.

Q. Were you alone with Mr. Robinson?

A. No, there were men going up and over the hill.

Q. Did he say that to you?

A. He didn't say it to me, it was the talk of the fellows.

Q. You heard him say it to someone?

A. I don't remember whether I did or just how that was.

Q. He didn't say anything directly to you?

A. He didn't say anything directly to me.

Q. How did you understand the fellows were to get their tools and go out?

A. It was the talk of the fellows.

Q. Did they say how they heard it?

A. No, they said those were the instructions, that they were going to shut the camp down on account of the rainy weather.

Q. (Mr. Walker) During the time the camp was shut down did you do any work?      A. Yes.

Q. How much time intervened between when the camp shut down and when you next went to work?

A. Two weeks. [545]

Mr. Walker: That is all. [546]

## ARTHUR BURFORD,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

## Direct Examination

Q. (Mr. Walker) What is your name?

A. Arthur Burford.

Q. You are the individual they call "Slim"?

A. Yes.

Q. Where do you live now?

A. I am residing at Union, Oregon, at the present time.

Q. Prior to that where did you live?

A. Sandpoint.

Q. What is your occupation?

A. Woodsman.

Q. Have you ever been engaged in wood-work at Caribou?      A. Yes.

Q. When did you first start there?

A. July, '35.

Q. At what time? [550]      A. July, '35.

Q. And what work did you do there?

A. At the start we surveyed right of way.

Q. Who is "we"?

A. Mr. Breen and myself.

Q. What did you do in that process?

A. Mr. Breen ran the transit and I held the rod and assisted him.

Q. In addition to Mr. Breen, did anyone else assist you two on the surveying job?

A. Yes.

(Testimony of Arthur Burford.)

Q. Who?

A. Herbert Hunt and James Brown, Jr.

Q. What did you survey the road for?

A. For the Long Lake Lumber Company.

Q. In addition to surveying the road for the Long Lake Lumber Company did you do any other work on the right of way?      A. Yes.

Q. What?      A. I acted as powder man.

Q. Did you know George Moore?

A. Yes.

Q. Who did you see about getting on that road job?      A. Mr. Breen.

Q. Is he the one who hired you? [551]

A. Yes.

Q. Who fixed your rate of pay?

A. Mr. Breen.

Q. From whom did you draw your checks when on that road job?      A. Mr. Robinson. [552]

Q. What men did you have working with you down at Caribou?

A. Down at Caribou? Jack Whitney and Henry Courser and Henry Samuel.

Q. How long did Mr. Brown, Jr. continue in his duties at the Caribou operation after this time when he came up to take over the timekeeping job?

A. He was there practically all summer; I don't know what his duties were on that same job.

Q. At any time while you were at Samuels did you see Mr. Brown, Jr.?

A. I saw him while he was there at Samuels.

Q. Did anything occur at that time?



(Testimony of Arthur Burford.)

A. Yes.

Q. What was it?

A. Mr. Brown, Jr. fired Mr. Jack Whitney.

Q. After that did Mr. Whitney work on that job any more?      A. No. [560]

Q. Did you stay and clean out that section?

A. No.

Q. Do you remember the day upon which the camp closed in June, '39?      A. Yes, sir.

Q. Do you remember the incident of the Union holding a meeting?      A. Yes, sir.

Q. And did you work on the day on which the Union meeting was held?      A. Yes, sir.

Q. Did you work the next day?      A. No.

Q. What happened that day?

A. Mr. Robinson told me to go out and bring my rigging in and turn in my blankets.

Q. Did you get the rigging in?      A. Yes.

Q. When you brought it into the camp, what did you do?      A. I took it in.

Q. What did you do then?

A. Turned in my blankets.

Q. Then what?

A. I went to the office and got my check. [566]

#### Cross Examination [570]

Q. Did you say, or were you present at the time you say that James Brown, Jr. fired a man by the name of Whitney?      A. Yes, I was present.

Q. Where was Mr. Whitney working?

A. At the landing at Samuels.



(Testimony of Arthur Burford.)

Q. At the landing at Samuels, on the landings loading the logs on cars at the siding?

A. No, at the skidways, the unloading skidways.

Q. The unloading skidways. A. Yes, sir.

Q. In connection with the unloading of trucks that hauled the logs? A. Yes, sir.

Q. And then being loaded subsequently on the railroad cars? A. Yes, sir.

Q. That is what was done at Samuels?

A. Yes, sir.

Q. Were you working there at the time at Samuels? A. Yes, sir.

Q. What doing?

A. Helping to construct the skidways.

Q. You were constructing them? [584]

A. Yes.

Q. That was what the man Whitney was doing?

A. Yes.

Q. Was he working under you? A. Yes.

Q. Who had directed you to go to Samuels to construct the skidways? A. Mr. Robinson.

Q. Was that in the spring or summer of 1936?

A. Yes.

Q. Was Mr. Whitney working at that time this incident occurred? A. Yes.

Q. Were the men working there? A. Yes.

Q. Several or not? A. Oh, not several.

Q. Was Mr. Robinson there at the time?

A. No.

Q. I forgot whether I asked you this: Were you in charge of the crew? A. Yes. [585]

Q. (Mr. Potts) I will ask, did you know whether

(Testimony of Arthur Burford.)

Mr. Robinson had sent James Brown, Jr. down there to give this man his time, did you know or not?      A. I didn't know.

Q. Why did you let him go; you let him go, didn't you?

A. After Jimmie told me he was fired we had a little argument and he would not stay.

Q. You were in charge of the crew?

A. Yes.

Q. You had refused shortly before that to recognize James Brown's authority to discharge two other men, hadn't you? [586]      A. Yes.

Q. Why did you recognize his authority on this occasion?      A. I did not.

Q. Then you didn't let the man go?

A. I said he did not need to go if he didn't want to until after I had seen Mr. Robinson.

Q. And he didn't want to stay there?

A. He didn't want to stay after the words with Mr. Brown.

Q. (Mr. Potts) The man did quit then and left the job?      A. Yes. [587]

Redirect Examination [591]

Q. (Mr. Walker) Had anything been said to Mr. Whitney prior to the time that he left the job?

A. Had anything been said to him?

Q. Yes.      A. No.

Q. Had anything been said—anything said to Mr. Whitney prior to the time he said he was leaving the job?

A. Mr. Brown, Jr. told him he was fired. [592]

FRANK MURPHY, [593]

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Walker) What is your name?

A. Frank Murphy.

Q. You live in Sandpoint? A. Yes, sir.

Q. What is your occupation?

A. The woods—a woodsman.

Q. How long have you done woodwork?

A. Since I was 14 years old.

Q. What kind of work have you done in the woods?

A. Sawed and swamped and driven teams and worked.

Q. Did you ever work at Caribou? A. Yes.

Q. When did you first start in there?

A. 1938.

Q. In 1938 what kind of work did you do at Caribou? A. I saw sawing. [594]

Q. At any time after June 7, 1939, did you work again at Caribou? A. During '39?

Q. During 1939.

A. We went back to work on the 24th of July.

Q. You have been saying "we". Whom do you mean by "we"?

A. My brother and I, who was my partner.

Q. He was your partner all through the '39 season? A. Yes.

Q. (Trial Examiner Hektoen) Is that Earl?

A. Earl.

(Testimony of Frank Murphy.)

Q. (Mr. Walker) When you went up to camp upon the resumption of work did you see anyone?

A. Yes.

Q. Who told you where to go to work?

A. Mr. Davis.

Q. And where did you go?

A. He told us to go to Smalling's.

Q. Did you go up to Smalling's?

A. Yes, we did.

Q. Did you go to work? A. Yes. [598]

Q. On what section had you been working prior to June 7, 1939?

A. I could not say anything about the section because I do not know where they lay up there.

Q. What type of material were you working in?

A. Working on white pine before June the 7th.

Q. When you got back up to Smalling's camp upon the resumption of work, where were you put to work?

A. We were put to work out where they had pine cut over—spruce.

Q. Who sent you up there?

A. Mr. Smalling.

Q. How long did you work on the spruce job?

A. We were up there three hours or three and a half hours.

Q. Then what happened?

A. Then we came down to town.

Q. That was the end of the day? A. Yes.

Q. Did you work the next day?

(Testimony of Frank Murphy.)

A. We went down to the main camp the next day.

Q. How did you happen to go there?

A. We got into camp just before supper and Mr. Robinson said he wanted us at the main camp.

Q. Did you go down?

A. Yes, the next morning. [599]

Q. Did you see anyone in the main camp?

A. Yes, sir.

Q. Who? A. Frank Robinson.

Q. What did he say?

A. He said to come down and see Mr. Chaney and saw for him.

Q. Did you go down? A. Yes.

Q. Who put you on that strip?

A. Mr. Chaney; Fred Chaney.

Q. Did you see Mr. Robinson any time after you saw him at the camp that day?

A. At the camp he told us to go down to Fred Chaney's and I didn't know where to start in and he said there is a jammer pole stuck in the road and wait for me there, and we just got down there and we met Fred Chaney.

Q. Where was it at, the jammer pole?

A. The jammer pole?

Q. Yes.

A. And he told us to go down below and it was just up the hill and we sawed up one tree and he had gone to the hospital and Mr. Robinson said he would come and show us and we waited at the

(Testimony of Frank Murphy.)

Chaney's trailer house and he was to come and get us there.

Q. You were waiting at Chaney's trailer house to go to the [600] hospital?

A. No, to meet Mr. Robinson.

Q. Did Mr. Robinson come along?

A. Yes.

Q. Did you have a talk with him?

A. Yes. He started to drive by and I halloed and he stopped with the pickup. I said Mr. Chaney showed us the strip and he said, "Well, I see you are wearing your button." I said, "Yes." And he said, "You and your Union button won't be here very long," and picked up and left.

Q. What were you wearing?

A. A Union button, C.I.O.

Q. (Trial Examiner Heckton) Who said this, Mr. Chaney?

A. Mr. Robinson.

Q. That would be on the 26th?

A. Yes, that would be on the 26th. [601]

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### EARL MURPHY,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (Mr. Walker) What is your name?

A. Earl Murphy.

(Testimony of Earl Murphy.)

Q. Are you a brother of the gentleman we have been talking about?      A. Yes, sir.

Q. Do you live at Sandpoint?      A. Yes.

Q. What is your occupation?

A. Wood work.

Q. How long have you been engaged in wood work?

A. I have worked in the woods off and on ever since 1924.

Q. What type of work did you do?

A. I skidded, sawed and swamped and helped hook on the jammer.

Q. Have you ever worked at Caribou?

A. Yes.

Q. When did you first work there?

A. The first time was in 1938. [620]

Q. When you resumed working after the camp reopened where did you go to work?

A. I went back to Smalling's.

Q. What kind of material did you work on at Smalling's when you went back?

A. They put us on the spruce.

Q. Then from the spruce job where did you go?

A. We went down to Chaney's. [624]

Q. How did you happen to go to Chaney's?

A. Well, we came in that night for supper and Mr. Smalling came up into the bunkhouse; we were sitting there; and said, "Frank don't want no more spruce cut." I said, "What about the white pine, aren't you cutting more white pine?" He said, "I don't know, Frank gave me orders for you to go



(Testimony of Earl Murphy.)

to the main camp and cut down there." I said, "It is funny that they are not going to cut any more white pine."

Q. Who told you to go on the Chaney strip?

A. I believe Arden Davis did.

Q. Did you go over there?

A. Yes. Frank said he would be there in a few minutes and show us the strip.

Q. Did you go down to the strip?

A. Yes; Frank said he would be there in a few minutes and show us the strip.

Q. You went down to the strip.

A. Yes; me and my brother walked down there to the strip with our tools and we met Mr. Chaney and asked him where our strip was; and he showed us and we waited there and after we felled a tree we cut the tree up into logs, and then we went back to Chaney's trailer house and waited there for pretty nearly an hour.

Q. Then what happened?

A. Before Mr. Robinson came along. [625]

Q. Did you see him?

A. He drove up in the pickup.

Q. Did you talk to him?

A. He got out of the truck and my brother hailed him down; he got out of the truck and said, "Did you fellows get your strip?" My brother said, "Yes." He said, "Oh, you are still wearing the button; I see you are wearing the button." My brother said, "Sure." And he said, "You and your Union button won't be around here long." He got into the truck and drove off. [626]



ARDEN DAVIS,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Walker:

Q. What is your name? A. Arden Davis.

Q. You reside in Sandpoint? A. Yes.

Q. You are the accountant, the bookkeeper or whatever the case may be? A. Yes.

Q. Now, how long have you held that position, Mr. Davis? A. Since February 22, 1934.

Q. And during all that time have you had charge of the books and records? A. Yes.

Q. Of the books and records and the accounting of the scale, for instance?

A. I have taken care of Mr. Robinson's books on the job.

Q. Does it constitute keeping a record of the scale of all logs made? A. Yes. [651]

Q. And does it also include keeping a record of the time of the men? A. Yes.

Q. When they start to work and of when an individual leaves that employment? A. Yes.

Q. What method of payment is usually applied? All disbursements are made by check?

A. Yes.

Q. Except the matter of the disbursing of funds for the payment of wages, are all disbursements made in pursuance of statements rendered; is that the usual procedure, you require the rendering of a statement before the disbursement is made?

(Testimony of Arden Davis.)

A. You asked for three copies.

Q. Yes.

A. You want it to go in as three copies?

(Discussion off the record.)

MR. Walker: This will be marked Board's Exhibit No. 6 for identification. [654]

(Thereupon the document hereinabove referred to was marked Board's Exhibit No. 6 for identification.)

Q. (Mr. Walker) Mr. Davis, I hand you what has been marked Board's Exhibit No. 6 for identification and I will ask you what that is.

A. That list is of the employees that were on the payroll as of June 5, and I might say—

Q. 1939? A. Yes.

Q. And some of those employees were not working on June the 5th; however, they were paid off; with the date on which they were first hired in 1939.

Q. That appears under the heading entitled "June"?

A. Yes. The employees that were on the payroll during the month of July, or the date they were hired after June the 5th, or some of them. We started through from the time they were first hired in 1939; also the employees during the month of August with the date they were hired after June 5, 1939.

Trial Examiner Hektoen: Does that date appear under the heading "August"?

The Witness: That date appears under the heading "August".

(Testimony of Arden Davis.)

Q. (Mr. Walker) Mr. Davis, in the instance some of the employees who have the same date under the heading July and again under the heading August, it simply indicates the individual had remained in the employment during August, although [655] his first date of resumption was in July; is that correct? A. Yes.

Q. Was Board's Exhibit No. 6 for identification prepared by yourself? A. Yes, sir.

Q. And it was prepared from the original payroll record, was it? A. Yes, sir.

Q. Mr. Davis, what was the practice followed in ordering supplies for the camp at Caribou during the 1939 season?

A. Why, we ordered by requisition, once in a while I would get something without a requisition; but as a rule, I did all the ordering by requisition.

Q. Take the case of the cookhouse. Will you explain how the cook, for instance, goes about obtaining the supplies necessary for the cookhouse?

A. Yes; they make a list and we have this wholesale man from Spokane for the bulk of the cookhouse supplies; it comes out every month and it goes to the cookhouse and I get it and give it to the wholesale man on his order form.

Q. Will you explain what system is followed in the matter of procuring supplies for the horses, for instance?

A. Well, we, as a rule, with people who have hay to sell come to camp and sell it and sometimes our employees have hay on some ranch and they will ask us to make a deal for it. [656]

(Testimony of Arden Davis.)

Q. Are you the person to whom the order for hay is delivered?      A. Not always.

Q. Whose duty is or was it in 1939 to observe that sufficient feed for the horses is maintained at the barn?

A. I generally watch it and see that we do not get low on anything, and then order it.

Q. That is true on both hay and oats, is it?

A. Yes, sir.

Q. Prior to June 7, 1939, do you recall whether or not you had ordered a load of hay?

A. The only hay we ordered before that, we bought twelve ton, I think it was, from Mr. Pearson, who had it stored here in town.

Q. When was that delivered, with respect to June 7, 1939?

A. I think just before, a few days before. We hauled a part of it, hauled some in; we had it in the warehouse and we hauled it as we needed it. If we didn't have too much on our supply truck we would load it and bring it in. I don't know. We would get it in.

Q. Had you ordered a load of oats during any time prior to June 7, 1939?

A. I don't remember.

Q. Do you remember a man from Bonners Ferry selling a load of oats which was delivered about two or three days before June 7th? [657]

A. We got oats from Boyd Connelly at Bonners Ferry, but I cannot tell you the date. I imagine it was—we usually get them in five-ton lots, and I

(Testimony of Arden Davis.)

think we got it when we first took the horses in in May; we may have had it from the year before; but we got oats in that time sometime.

Q. Do you recall subsequently of an order of oats from Boyd Connelly at Bonners Ferry just shortly prior to June 7, 1939?

A. I cannot recall it now, how soon it was.

Q. Had you placed an order with Connelly at Bonners Ferry since the camp opened along in May, 1939?

A. Yes, I think I had.

Q. On June 5, 1939, do you recall who was the cook in charge at that time?

A. We quit that day. We had two cooks, Harry Garvin in the morning and C. C. Sperber in the evening.

Q. Was an order for supplies at the cookhouse placed with you on that Monday, do you recall?

A. No, there was not.

Q. You mean there was not or that you do not recall?

A. No, there was not; there was not.

Q. You mean you did not place a call with the wholesale man or that the order was not placed with you by either Garvin or Sperber?

A. No. [658]

Q. Which—no—which?

A. I can explain it. The week before I knew Garvin was leaving, he wanted to leave, and I told him he better get an order to carry the next cook over for two weeks because I said, if we change on Monday, one person won't know what the other one

(Testimony of Arden Davis.)

wants, so I got enough in there to run us over this particular week.

Q. I see; that order was delivered at camp the succeeding Wednesday?

A. As far as that is concerned I don't remember, but it came in.

Q. Mr. Davis, were you in the office at Caribou on the evening of June 6th? A. Yes.

Q. Yes. And in fact, you were in camp all that day, weren't you? A. No, I was not.

Q. I don't mean every hour of the day, but you did work that day? A. Yes.

Q. Do you remember when Mr. Brown, Jr., came to the camp that evening?

A. I was downtown that afternoon and Mr. Brown, Jr., was in camp when I came into the camp again.

Q. About what time did you get back to camp that evening? [659]

A. I was away late for supper; I don't remember the hour.

Q. And the supper is usually served about——

A. (Interrupting) Five o'clock.

Q. Were you in camp by seven o'clock that evening? A. Yes, I think so.

Q. Did you receive or expect a telephone call that evening? A. Not that I remember.

Q. A call about seven o'clock that evening?

A. I don't remember about expecting any call that evening; I don't remember anything.

Q. Whether you expected one call or two calls that evening, or more? A. No.



(Testimony of Arden Davis.)

Q. You don't remember the fact. Where is the telephone situated at the camp?

A. In the office.

Q. In the office? A. Yes.

Q. Do you recall whether or not a telephone call had come to the camp that evening? A. No.

Q. I have two or three questions more which I don't know whether I have asked before or not.

Mr. Hunt: Go ahead.

Q. Mr. Davis, do you know of a chattel mortgage having been [660] executed by Mr. Robinson and the Bonner County National Bank?

A. Yes.

Q. Can you state about the date on which that was executed.

A. I believe it was sometime in March.

Q. 1939? A. Yes.

Q. And what was the due date of this mortgage, if you recall?

A. I think it was running annually.

Trial Examiner Hektoen: I didn't get that.

The Witness: I think it was annually.

Q. (Mr. Walker) Would it be correct to say that that mortgage was for the duration of the six months' period?

A. Possibly, yes; I know now, I paid the interest every six months.

Q. Has it been discharged yet?

A. No, it has not.

Q. What is the principal sum of the mortgage?

A. \$10,000.

(Testimony of Arden Davis.)

Q. At the beginning of the 1939 season, was Mr. Robinson indebted to the Long Lake Lumber Company? A. Yes.

Q. Do you recall approximately how much that was? A. \$24,000 or approximately that.

Q. Can you give me the figure approximately of how much the [661] two double-drum skidding tractors cost?

A. The first one and the second one—I think it was \$3900 approximately for the first, a second-hand one; and the second one, a new one, was about five thousand—\$4900.

Q. And those two machines were acquired subsequent to the beginning of the 1939 season?

A. Yes.

Mr. Walker: I offer in evidence this document which was marked Board's Exhibit No. 2 for identification and Board's Exhibit No. 6 for identification.

Trial Examiner Hektoen: Is there any objection?

Mr. Hunt: No.

Trial Examiner Hektoen: They will be admitted without objection.

Mr. Potts: How many sheets are contained in Board's Exhibit No. 6; how many sheets?

Mr. Walker: Nine.

Trial Examiner Hektoen: Nine sheets. They will be received.

(Whereupon the document heretofore marked Board's Exhibit 2 for identification was received in evidence.)



(Testimony of Arden Davis.)

BOARD'S EXHIBIT No. 2

LOGS OUT OF CARIBOU—1939

	1938	1939
January		
February		
March		
April		
May		
June	2,199,850	181,360
July	2,407,440	1,004,840
August	2,622,980	2,870,390
September	2,892,470	1,593,240
October	1,647,030	1,259,110
November	52,060	1,043,930
December		
	<hr/>	<hr/>
	11,821,830	7,952,870

(Whereupon the document heretofore marked Board's Exhibit 6 for identification was received in evidence.)

BOARD'S EXHIBIT No. 6

F. D. ROBINSON CARIBOU BASIN PAYROLL  
EMPLOYEES ON PAYROLL JUNE 5th, 1939

	NAME	JUNE	JULY	AUGUST
1	Bews, James	5-2		
2	Bews, John	5-2		
3	Brookshire, William	5-9		
4	Buhr, Henry	5-19	7-20	7-20
5	Burford, A. J. ✓	5-28	7-20	7-20
✓ 6	Brodine, Chas. ✓	5-23	7-22	7-22
✓ 7	Barwise, Robert ✓	6-1		
✓	Bopp, Jack asst in office	6-1	6-1	6-1
8	Berry, Charles ✓	6-5	7-17	7-17
✓ 9	Berger, Ernest ✓	6-5		
10	Crocker, Max	5-2		8-1

## (Testimony of Arden Davis.)

## F. D. Robinson Caribou Basin Payroll—(Continued)

	NAME	JUNE	JULY	AUGUST
11	Critchell, Kenneth	1-2	1-2	1-2
12	Critchell, George	5-18	7-15	7-15
13	Cox, C. C.	6-1	7-20	7-20
14	Cox, L. E.	6-1		
√15	Chaney, Arlie√	6-1	7-5	7-5
√16	Chaney, Cecil	6-1	7-5	7-5
17	Casa, Zin	6-1	7-25	7-25
√18	Chaney, Fred	6-2	7-21	
19	Campbell, Walter	6-5	7-20	7-20
√20	Dingley, Charles√	4-7		
√	Davis, Arden office mgr	1-1	1-1	1-1
√21	Dobravee, Joe√	6-2	7-15	
22	Bernard Durriek√	6-2		
√23	Earley, Ted√	4-27	7-19	7-19
√24	Evans, A. W.√	5-23		
√ 5	Feeeo, Art√	5-15		
√ 6	Feeeo, Ralph√	5-15		
√ 7	Faurot, Albert√	5-25		
√ 8	Finley, J. L.√	6-5	7-19	7-19
√ 9	Greer, Dale√	5-15		
√30	Garvin, Harry√	1-1		
√ 1	Gunsalus, Harry	6-2	7-5	7-5
2	Gooby, C. J.	1-1	7-20	7-20
3	Gooby, Basil	4-1		
√ 4	Henry, William√	4-6	7-10	7-10
√ 5	Harder, Stanley	4-5	7-26	7-26
√ 6	Hendrickson, Albin√	1-1	1-1	1-1
√ 7	Haney, Orlando	5-3	7-20	7-20
√ 8	Hansen, Martin√	5-15		
9	Hulbert, Bernerd	5-16	7-14	7-14
√40	Hunt, Emery√	6-5	7-24	7-24
√ 1	Joseph, Clifford√	4-10	7-24	7-24
√ 2	Jenkins, Robert	6-1	7-19	7-19
√ 3	Joseph, Joel	6-1	7-24	
√ 4	Kirtley, Ura√	4-6		
5	Klingman, William	1-1	7-20	7-20
√ 6	Kurwitz, Elmer	6-1		
√ 7	Lang, Bud√	4-10	7-22	7-22

(Testimony of Arden Davis.)

F. D. Robinson Caribou Basin Payroll—(Continued)

	NAME	JUNE	JULY	AUGUST
√ 8	Lisles, Charlie√	5-18		
√ 9	McCarr, Jack√	5-12	7-24	7-24
50	McHenry, Roy	5-15		
1	Moody, Clarence	5-2	5-2	5-2
√ 1	Moore, Gregory√	4-6	7-19	7-19
√ 3	Miller, Dwight	4-6	7-14	7-14
√ 4	Monett, Robert√	4-27		
5	Millsaps, Earl M.	5-9		
6	Morrow, Jim	6-1	7-14	7-14
√ 7	Mor, Frank√	5-18	7-25	7-25
8	Millsaps, A. J.	5-23		
9	Moody, Sidney√	6-1	7-16	
√60	Murphy, Frank	6-1	7-24	
√ 1	Murphy, Earl	6-1	7-24	
2	Morrow, Harry	6-2	7-14	7-14
√ 3	Mardis, Neil√	6-5	7-24	7-24
√ 4	Olson, Hjalmar√	5-1	7-25	7-25
5	Olson, Vernoy	5-8		
√ 6	Peterson, Curtis√	5-1	7-22	7-22
√ 7	Peterson, Ralph√	4-11	7-10	7-10
√ 8	Porter, Cecil	6-5	7-19	7-19
√ 9	Robinson, Granville√	5-2		
√70	Robinson, Grant	5-11		
1	Ratcliff, Everett	5-16	7-14	7-14
2	Ritchie, Herbert	6-1	7-19	7-19
3	Rogers, L. A.	6-5	7-1	
√ 4	Runyan, Cecil	6-3	7-5	7-5
5	Robinson, Tom	5-2	7-13	7-13
√ 6	Stevens, Boyd√	4-4		
7	Sage, Bert	5-8	7-20	7-20
√ 8	Swenson, Andrew√	5-15	7-15	7-15
√ 9	Smith, Clyde√	5-16		
80	Smalling, Len	6-1	7-19	7-19
√ 1	Stevenson, Charles√	4-21	7-24	
2	Stevens, Ray√	6-1		
√ 3	Sperber, Herbert√	6-5		
√ 4	Sperber, C. C.	6-5	7-10	7-10
√ 5	Sperber, Marie√	6-5	7-10	7-10
√ 6	Twist, C. E.√	6-1	7-21	7-21

## (Testimony of Arden Davis.)

## F. D. Robinson Caribou Basin Payroll—(Continued)

	NAME	JUNE	JULY	AUGUST
7	Vest, Stanley	6-5		
✓ 8	Williams, Fred ✓	5-2		8-1
✓ 9	Waffle, Jack ✓	5-3	7-20	7-20
✓ 90	Way, Nathan ✓	5-6	7-17	7-17
✓ 1	Wise, L. M. ✓	6-1		
2	Wilke, Tom	6-1	7-19	7-19
✓ 3	Yeazel, Robert ✓	5-18	7-27	7-27
JULY	NEW MEN	JUNE	JULY	AUGUST
	Altig, Clarence		7-18	
	Ackalov, Andrew		7-24	7-24
	Boothe, Swin		7-14	7-14
	Boling, William		7-15	7-15
	Bowlby, John		7-20	7-20
	Boling, Alfred		7-24	7-24
	Busha, George		7-29	7-29
	Blume, Claude		7-26	
	Carter, Lewis		7-14	
	Carter, George		7-14	
	Cyre, R. M.		7-19	7-19
	Campbell, C. A.		7-17	7-17
	Chaney, Roland		7-14	7-14
	Critchell, Addison		7-27	7-27
	Crotteau, C. W.		7-31	7-31
	Decker, Lealand		7-31	7-31
	Davis, Earl		7-17	7-17
	Dodge, William		7-17	7-17
	DeBacker, Joe		7-26	7-26
	DeBacker, Bill		7-26	7-26
	DeBacker, Chas.		7-26	7-26
	Falk, William		7-18	7-18
	Foss, Clarke		7-31	7-31
	Gower, Robert		7-17	7-17
	Gumaer, Mart		7-20	7-20
	Hilsen, Arthur		7-14	7-14
	Harris, J. E.		7-14	7-14
	Harris, Byron		7-14	7-14
	Hesselgesser, Paul		7-20	

(Testimony of Arden Davis.)

F. D. Robinson Caribou Basin Payroll—(Continued)

NAME	JUNE	JULY	AUGUST
Hanaway, T. W.		7-20	7-20
Hensley, Lonnia		7-17	7-17
Helander, Herman		7-25	7-25
Hudon, Pearl		7-25	7-25
Iverson, Richard		7-28	7-28
Johnson, C. A.		7-17	7-17
Janson, Carl		7-24	7-24
Kutulas, Gust		7-14	7-14
Kannady, William		7-26	7-26
Kirkpatrick, Joe		7-29	7-29
Lekoff, Alex		7-24	7-24
LaRose, Edward		7-24	7-24
Lutes, Burton		7-27	7-27
Millard, Leon		7-14	
Manning, Clarence		7-17	
Montague, Reuben		7-22	7-22
Miller, William		7-27	7-27
Miller, K. J.		7-31	7-31
Moody, Mrs. Sidney		7-30	7-30
Norman, Victor	6-6	7-3	7-3
Nichols, Jesse		7-27	7-27
Norstadt, James		7-31	7-31
Putnam, Gene		7-17	7-17
Peterson, Carl		7-25	7-25
Rosemyer, H. F.		7-26	7-26
Robinson, Lloyd		7-28	7-28
Robinson, Ward		7-28	7-28
Rogers, Eleanore		7-28	7-28
Sperber, Jim		7-14	7-14
Simpson, James		7-14	
Swanson, Robert		7-17	7-17
Swanson, George		7-17	7-17
Schull, Howard		7-17	7-17
Sharp, Roy		7-17	
Sciaccotti, Frank		7-19	
Stockman, Alex		7-20	7-20
Sperber, Mrs. J. F.		7-16	
Schovaers, Charles		7-26	7-26
Stradley, Hanley		7-26	7-26

## (Testimony of Arden Davis.)

## F. D. Robinson Caribou Basin Payroll—(Continued)

NAME	JUNE	JULY	AUGUST
Tillman, Jack	5-1	7-1	7-1
Tarr, LeRoy		7-26	7-26
Tidd, Joe		7-31	7-31
Villiard, Louie		7-20	7-20
Winslow, Forrest		7-20	7-20
Wattman, Harold		7-26	7-26
Waterman, Leo		7-31	7-31
Aldrich, Frank			8-22
Bowers, Ed.			8-5
Bonny, Vernon			8-9
Boyland, Clarence			8-4
Brynteson, H. F.			8-14
Chandler, William			8-1
Carnegie, Andrew			8-1
Chance, Virgil			8-5
Coleman, Robert			8-8
Carr, Jim			8-14
Ellertsen, Stanley			8-7
Evanuk, Tony			8-9
Forgey, Robert			8-4
Forgey, Carl			8-12
Graw, Gilbert			8-8
Gustafson, Axel			8-21
Geer, Llewellynn			8-30
Holton, Roy			8-1
Hesner, Cecil			8-2
Hale, Roy			8-9
Hollender, Chas.			8-4
Hansen, Paul			8-23
Hughes, Harry			8-22
Inghram, Howard			8-14
Kosoff, Alex			8-3
Kenny, Patrick			8-3
Kenny, Harry			8-3
Kinny, Walter			8-11
Kosoff, Pete			8-12
Logan, Roy			8-5
Loding, P. O.			8-21
McKinley, Raymond			8-1

## (Testimony of Arden Davis.)

## F. D. Robinson Caribou Basin Payroll—(Continued)

NAME	JUNE	JULY	AUGUST
McMurray, E. A.			8-8
Mathews, E. M.			8-3
Nash, Gerald			8-14
Osborne, William			8-16
Powell, Danvy			8-1
Pearce, W. J.			8-3
Peterson, Archie			8-7
Powell, C. J.			8-7
Perry, Henry			8-4
Rambo, Ralph			8-3
Ruther, Tom			8-21
Rockwell, Wendell			8-17
Reynolds, Clifford			8-29
Savage, James			8-28
Shannon, Lucian			8-3
Stevens, Edward			8-4
Snead, B. F.			8-5
Stonebraker, Clyde			8-7
Staley, Jesse			8-12
Scott, Frank			8-16
Stevens, W. C.			8-21
Treat, Art			8-23
Witherall, Ira			8-25
Wallson, Lawrence			8-4
Williams, R. E.			8-7
Wallson, Chester			8-28
Jones, Bill			8-24
Yanders, Clarence			8-2

Q. (Trial Examiner Hektoen) Tell me again about the second column which is headed "July". (Referring to exhibit.) [662]

A. Those are the men who were in our employ during the month of July and the date that they were hired.

(Testimony of Arden Davis.)

Q. During that month?

A. No; after June 5th.

Q. Take Critchell; he began work in May?

A. He began work May 18th and was on the payroll June 5th.

Q. And then he came back in July?

A. Yes.

Q. He was still there on August 15th?

A. He was still there during the month of August and was hired.

Q. I see.

A. He went straight through.

Q. Very good.

Q. (Mr. Walker): Referring to what is marked as Board's Exhibit 6 I call attention to the individual whose last name is Stradley.

Mr. Hunt: What date is this?

Mr. Walker: This is on Exhibit 6.

A. The first name is Harrley.

Q. That is the correct spelling of the first name rather than the manner in which it is spelled on Board's Exhibit 6 in type? A. Yes.

(Thereupon at this time a short recess was taken, after [663] which proceedings were resumed as follows:)



C. C. SPERBER,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Walker): What is your name?

A. C. C. Sperber.

Q. You reside at Plummer, Idaho, do you?

A. Yes.

Q. What is your occupation?

A. I have several businesses. This last couple of years I have been cooking.

Q. What type of cooking?

A. In logging camps.

Q. During 1939 did you do any cooking at Caribou?      A. Yes.

Q. Do you recall when you first started in there?

A. I think it was the 5th of May—of June.

Q. Did you work that day?      A. Yes.

Q. During any time of that day upon which the Union meeting was held did you see Mr. Robinson?

A. Not until that evening. He may have been in in the morning but I would not have noticed.

Q. Did you serve the evening meal on that day?

[664]

A. Yes.

Q. With respect to the time when the evening meal was served, when did you first see Mr. Robinson?

A. I would not say positively but I think it was after the meal was served.

(Testimony of C. C. Sperber.)

Q. Where did you see him?

A. In the quarters in the cookhouse.

Q. Did you have a talk with him at that time?

A. Very few words.

Q. What was said?

A. I think the first that was said, I think Mr. Robinson said, "We might be going to have some excitement in the camp as there is going to be a Union meeting for organization."

Q. Did you say anything about that?

A. I suppose I made some answer. It was the first I had heard of it and I would not remember.

Q. Was there anything more said by Mr. Robinson at that time?

A. He came in shortly later again and spoke to me—shall I go ahead?

Q. Was this the same evening?

A. This was the same evening.

Q. And about how much time had gone by between when he first came in and when he came back the second time?

A. It might have been thirty or twenty minutes; it might have been a little longer. [665]

Q. What was said the second time?

A. Mr. Robinson wanted to know if my wife and I belonged to the Union. Our boys were working there. I told him no. He said if it was turned into a Union camp we would probably have to belong to the Union.

Q. Did you say anything to that?

A. I asked him what Union and he said, "Under

(Testimony of C. C. Sperber.)

the circumstances it might be a good thing." And I said, I had never belonged to a Union and didn't know anything about it and he said, "It might be all right under the circumstances."

Q. Have you related everything which you recall which was said during this second conversation? A. As near as I can remember.

Q. After this second time did you ever see Mr. Robinson again that day?

A. Yes, sir; he was in quite a bit later that evening.

Q. Was anyone with him? A. Yes.

Q. Who?

A. Mr. Critchell and Mr. Jimmie Brown; there may have been others but I remember those definitely.

Q. Did you have a talk with any of them at that time?

A. No, I don't think so, only Mr. Brown, I think it was Mr. Brown, asked me if I was a Union man now and I told him I was. [666]

Q. What had occurred in the meantime?

A. The organizer, Mr. Johnson, came in and asked us to sign up and we had signed up.

Q. Did anything take place between the time of the second conversation and the time of the third conversation that you learned of?

A. I learned that they had had a meeting.

Q. Who had had a meeting?

A. The Union and Mr. Robinson; it was hearsay with me; it was nothing that I participated in.

(Testimony of C. C. Sperber.)

Q. Was there anything said by Mr. Robinson to you with respect to the meeting which had been held between Mr. Robinson and the Union?

A. There was something said but as to the exact time it was said that evening or whether the next morning, I am not positive.

Q. During the conversation with Mr. Robinson, did he make any reference to having had a meeting with the Union?

A. He did at one time but as I said I don't remember whether it was that evening he told me that or next morning.

Q. The next morning did you see Mr. Robinson?           A. Yes.

Q. Do you remember the incident of the camp closing down?           A. Yes.

Q. About what time did you see Mr. Robinson the next morning? [667]

A. Well, I think it was after breakfast had been served.

Q. Did you have a conversation with him at that time?

A. A few words; he came in and told me that everything had been settled and they were all going to work.

Q. Did the men go to work that morning, do you know?

A. As far as I know they came in and ate breakfast and put up their lunches and all went out.

Q. After this time did you see Mr. Robinson again that day?

(Testimony of C. C. Sperber.)

A. Not until, I think it was shortly before dinner when he came in again.

Q. Did you have a talk with him at that time?

A. He said the stuff was off, that he guessed the camp was going to close.

Q. (Trial Examiner Hektoen): That was before dinner? A. Yes.

Q. (Mr. Walker): During this last conversation did Mr. Robinson make any reference to having had a meeting with the Union?

A. Yes, he said they had come up to see him at the office again.

Q. Did he say anything further?

A. He said they were making demands which at present looked like it was impossible for him to meet.

Mr. Walker: That is all.

Cross Examination [668]

Q. (Mr. Hunt): You mentioned Jimmie Brown, you mean James M. Brown, Sr. or Junior?

A. Junior.

(Witness excused)

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ADAM L. PIERSON,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Walker): What is your name?

(Testimony of Adam L. Pierson.)

A. Adam L. Pierson.

Q. Where do you reside?

A. Coeur d'Alene.

Q. What is your occupation?

A. Millworker.

Q. Are you a member of any labor organization?

A. Yes, I am president of the I.W.A., Local 119.

Q. When did Local 119 of the I.W.A. come into existence?

A. September 15, 1937, the charter was installed.

Q. What is the organization issued the charter to the Local No. 119?

A. The International Woodworkers of America.

Q. Is that organization affiliated with any other?

A. It is affiliated with the C.I.O.—the Congress of Industrial Organization.

Q. When did you assume the position of president? [669]

A. I served two terms in the office, the first one in 1937 and the last from 1938 to the present time.

Q. Do you hold any other offices with the organization other than as stated?

A. I am president of the Inland Empire District Council of the International Woodworkers of America.

Q. What geographic territory is covered by Local 119?

A. The northern part of Washington and all of the State of Idaho at the present time,—Local 119?

(Testimony of Adam L. Pierson.)

Q. Yes.

A. I thought you referred to the Provisional Committee. I would like to make a correction. Couer d'Alene and Sandpoint.

Q. Has Local 119 any individual in its membership who at any time has been employed at Caribou operations? A. Yes.

Q. When did organizational work begin in the Sandpoint area, do you recall?

A. No, in the middle of May, I believe; it was in 1939.

Q. How was the organizational campaign conducted at Sandpoint?

A. We sent a business agent out here through the request of the Sandpoint loggers for organization.

Q. When you say "we", who do you mean by "we"? A. Local 119.

Q. Under the rules and the regulations of Local 119, will you state who, or what type of individuals are eligible for [670] membership?

A. Any employee of the lumber industry that takes any part in the making or processing of lumber from the stump and the finished product including all classes such as loggers, special woodworkers, millworkers, box shook makers, planers, and sawmill men, loaders, truckdrivers, I mean truckdrivers in the process of hauling logs from the woods to the landing and so forth.

Q. With respect to this operation will you state



(Testimony of Adam L. Pierson.)

what classification of workers are eligible to membership?

A. The only class who are exempt from membership in the logging operations are those responsible for the—I will say in the capacity of foremen, assistant foremen or clerical employees such as office employees.

Q. Those are the type which are excluded?

A. Yes; there is one construction there which would make it possible for an assistant foreman or assistant foremen to be members but the provision in the Constitution is such as to the membership itself, as to except them.

Q. The type which would be eligible for membership would include all production and maintenance employees?      A. Yes; that is right.

Q. Who is the president of the International organization, do you know?

A. Harold J. Pritchett. [671]

Q. Mr. Pierson, I hand you what is marked Board's Exhibit No. 5 for identification and ask you what those are.

A. Those are applications for membership in the International Woodworkers of America. These particular cards have been issued and signed for membership in Local 119.

Q. Is that the usual type of card issued by the International?

A. Yes; it is the universal card issued by all the local unions of the International, they are all the same.



(Testimony of Adam L. Pierson.)

Q. Have the cards which constitute Board's Exhibit No. 5 for identification ever been in your possession?      A. Yes.

Q. And have they, after having been in your possession, did you deliver them out of your possession to anyone?

A. To the Local business agent at the Sandpoint District.

Q. Who is that?

A. It was at that particular time Herbert Johnson.

Q. Who did you deliver them over to?

A. Herbert Johnson. I might explain if there is no objection, Mr. Examiner, I might point out the reason for the Local——

Trial Examiner Hektoen: Just one minute. Please answer the questions.

Q. (Mr. Walker): Has Local 119 at the present time a business agent?      A. Yes.

Q. Who is he? [672]

A. Mr. Wes Raynor.

Q. Now did you at any other time receive cards which constitute Board's Exhibit No. 5 for identification into your possession?

A. I don't understand the question.

(Thereupon the last question was read.)

A. With the exception of the time I referred to in Mr. Johnson's case, the question I answered before was with relation to how I got possession of the cards in the first place.

(Testimony of Adam L. Pierson.)

Q. The cards were delivered to you by the International; is that correct?

A. The first cards; yes, sir; before they signed?

Q. That is what I mean. Then when you received them from the International, what did you do with them?

A. We issued them to the business agent.

Q. What did the business agent do with them after he had gotten the cards from you?

A. He had the cards signed and turned them into the local for acceptance.

Q. And after the cards were turned into the Local, where were they kept?

A. They were kept at this one particular meeting and voted on. They have to be voted on for membership.

Q. I mean after Mr. Johnson got the cards signed, he turned them back to you or the Local?

[673]

A. Yes.

Q. Did they remain in the Local's possession then after that? A. For a period of time, yes.

Q. After the period of time was up, what did you do with them?

A. They were turned back to the new business agent elected by the sub-local.

Q. Who was that? A. Wes Raynor.

Mr. Walker: That is all.

#### Cross Examination

Q. (Mr. Hunt): When did Mr. Herbert Johnson sever his relations with Local 119?

(Testimony of Adam L. Pierson.)

Mr. Walker: Objected to as improper cross examination.

Trial Examiner Hektoen: Objection sustained.

Mr. Hunt: It was in evidence on direct examination that Mr. Herbert Johnson was the local business agent and now it is Mr. Wes Raynor.

Mr. Walker: He may have other relations with Local 119.

Trial Examiner Hektoen: He is now out of it completely, apparently.

Q. (Mr. Hunt): Has Mr. Herbert Johnson any other official relations with Local 119?

A. He is still a member of Local 119.

Q. Is he an officer of Local No. 119? [674]

A. I would like to say this, he is still a member; while it is true he has not been dropped as business agent.

Q. He still is a business agent?

A. He still holds an official position with us; yes.

Mr. Hunt: That is all.

Q. (Trial Examiner Hektoen): When talking about the cards you said they were application cards and then you said something else. What was it, do you remember?

(No answer.)

Trial Examiner Hektoen: Mr. Walker, do you know what I mean?

Mr. Walker: I will ask the question.

#### Redirect Examination

Q. (Mr. Walker): Are the cards which are

(Testimony of Adam L. Pierson.)

marked Board's Exhibit 5 for identification used for any purpose in addition to serving as application cards?

A. Yes, I would say they have some other purpose.

Q. What other purpose?

A. It specifically states on the card, "I hereby designate the International Woodworkers of America, Local 119, as my sole collective bargaining agent."

Q. What other purpose do the cards such as those exhibited by Board's Exhibit No. 5 for identification, serve in addition to serving as application cards?

A. It gives Local No. 119 the position of a collective bar- [675] gaining agent without the membership being fully paid up.

Mr. Walker: That is all.

(Witness excused.)

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WES RAYNOR,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Walker:

Q. You reside in Sandpoint, do you?

A. Yes, sir.

Q. Are you the individual that Mr. Pierson referred to in his testimony?           A. Yes, sir.

(Testimony of Wes Raynor.)

Q. I hand you Board's Exhibit No. 5 for identification and ask you if you know what these are.

A. They are application cards for membership in the International Woodworkers of America.

Q. Are the cards contained in Board's Exhibit No. 5 for identification cards which have ever been in your possession?      A. Yes.

Q. From whom did you receive them?

A. From Adam L. Pierson.

Q. That is the individual who just testified?

A. Yes.

Q. And he is president of Local No. 119?

A. Yes. [676]

Q. Have they been in your possession ever since they were delivered to you by Mr. Pierson?

A. Yes, sir.

Q. Have they been in your possession at all times since they were delivered over to you by Mr. Pierson?      A. Yes.

Q. At all times?      A. Yes.

Q. Except when you delivered them over to me?

A. Yes.

Mr. Walker: That is all.

#### Cross Examination

By Mr. Hunt:

Q. When did you receive the cards?

A. Sometime in August, 1939.

Mr. Hunt: That is all.

#### Redirect Examination

By Mr. Walker:

Q. One thing more, Mr. Raynor. I hand you

(Testimony of Wes Raynor.)

a document consisting of two sheets of paper. Will you state what that represents? Will you please mark this Board's Exhibit No. 7 for identification.

A. That refers to the Union members that were in the Long Lake Lumber Company camp in Caribou in 1939.

(Whereupon the document hereinabove referred to was marked Board's Exhibit No. 7 for identification.) [677]

Q. Does it represent a listing of the names of the individuals whose names are set out on the cards marked Board's Exhibit No. 5 for identification?

A. Yes, sir.

Q. Was that list prepared under your direction?

A. Yes, sir.

Q. When was it prepared?

A. About two weeks ago.

Q. Has that listing been checked with the cards themselves, this package marked Board's Exhibit No. 5 for identification?

A. Yes.

Q. Did you do that?

A. Yes.

Mr. Walker: That is all. We offer in evidence these cards marked Board's Exhibit No. 5 for identification and we request that the listing of the names of the individuals set out on such cards marked Board's Exhibit No. 5 for identification may be substituted in lieu of the originals. It is offered in evidence, being Board's Exhibit No. 7 for identification.

Mr. Hunt: To which we object. We have no objection to copies being substituted, but we do ob-

(Testimony of Wes Raynor.)

ject to substituting the names on the list for the membership cards. It would be no trouble to make copies of the printed cards; but the entire bunch of cards marked as Exhibit No. 5 is in evidence, and we ask that they make a complete copy of them, and that [678] the same be substituted.

Mr. Walker: May it be understood that the paper may be used for greater legibility of the signatures?

Trial Examiner Hektoen: Yes. Board's Exhibit No. 5 for identification is admitted without objection and copies of the cards may be substituted for the original, and such substituted copies, together with the listing just substituted will then be substituted as Board's Exhibit No. 5 in evidence.

Mr. Hunt: May the record show the signatures on the cards, that the E. E. Hunt is not myself but someone else?

Trial Examiner Hektoen: Certainly.

(Thereupon the document heretofore marked Board's Exhibit No. 7 for identification and the cards heretofore marked Board's Exhibit No. 5 for identification, were received in evidence as Board's Exhibit No. 5.)

BOARD'S EXHIBIT No. 5

NAME	DATE OF INITIATION	[See Note]	
√O. W. Haney√	June 8, 1939		
√Grant Robinson√	June 8, 1939		
√Amon Garvin√	May 28, 1939	1	1
√Hjalmar Olson√	June 2, 1939	2	2



## (Testimony of Wes Raynor.)

NAME	DATE OF INITIATION	[See Note]	
✓ Arthur Feoco ✓	July 6, 1939	2	
✓ Ralph Feoco ✓	July 6, 1939	4	
✓ Robert C. Yeazel ✓	June 2, 1939	5	3
✓ Fred Williams ✓	April 31, 1939	6	4
✓ Burnell N. Lang ✓	June 3, 1939	7	5
✓ Clifford Joseph ✓	June 5, 1939	8	6
✓ Greg Moore ✓	May 28, 1939	9	7
✓ Dale Greer ✓	April 30, 1939	10	8
✓ Leon Wise ✓	May 29, 1939	11	9
✓ Charles A. Lisle ✓	June 4, 1939	12	10
15 Ray C. Stevens ✓	June 2, 1939	13	11
✓ Andrew Leroy Swenson ✓	June 5, 1939	14	12
✓ Curtis P. Peterson ✓	June 3, 1939	15	13
✓ Stanley Harder ✓	June 8, 1939		
✓ Jack Waffle ✓	June 6, 1939	16	
✓ Martin Hansen ✓	May 28, 1939	17	14
✓ Charles C. Dingley ✓	June 1, 1939	18	15
✓ A. J. Burford ✓	June 2, 1939	19	16
✓ Joel Joseph ✓	June 9, 1939		
✓ Clyde I. Smith ✓	June 2, 1939	20	17
✓ Charles Stevenson ✓	May 29, 1939	21	18
✓ Neil Mardis ✓	June 3, 1939	22	19
✓ Ted Earley ✓	May 28, 1939	23	20
✓ J. D. Finley ✓	June 2, 1939	24	21
✓ Ralph Peterson ✓	May 28, 1939	25	22
✓ Clinton Phillips ✓	June 5, 1939	26	23
✓ Boyd Stevens ✓	May 28, 1939	27	4
✓ Granville Robinson ✓	May 29, 1939	28	5
✓ Harry Garvin ✓	June 5, 1939	29	6
✓ Charles Brodine ✓	June 2, 1939	30	7
✓ John J. McCann ✓	May 29, 1939	31	8
✓ Frank Moore ✓	June 1, 1939	32	9
✓ Nathan Way ✓	June 6, 1939	33	
✓ A. W. Evans ✓	June 2, 1939	34	30
✓ U. E. Kirtley ✓	June 3, 1939	35	1
✓ Robert Monett ✓	May 29, 1939	36	2
✓ Dwight E. Miller ✓	June 6, 1939	37	
✓ Robert Barwise ✓	June 1, 1939	38	3
✓ George A. Keller ✓	July 5, 1939	39	4
✓ James Doyle ✓	July 1, 1939		5



(Testimony of Wes Raynor.)

	NAME	DATE OF INITIATION	[See Note]	
	√Harry Courser√	June 3, 1939	40	6
	√Guy L. Coulston√	June 11, 1939		
	√Frank Murphy√	June 9, 1939		
	√Ernest Berger√	June 6, 1939	41	
	√C. J. Sage√	June 5, 1939	42	7
50	√Albert Faurot√	May 29, 1939	43	8
	√William Henry√	May 28, 1939	44	9
	√Glen Moore√	June 1, 1939	45	40
	√Elmer Kurwitz√	June 11, 1939		
	√H. A. Sperber√	June 5, 1939	46	1
	√C. E. Twist√	June 6, 1939	47	
	√Cecil Porter√	June 7, 1939		
	√Walter J. Waffle√	June 20, 1939		
	√Jack Tillman√	June 8, 1939		
	√Elmer Anderson√	June 8, 1939		
	√Harold Hunt√	June 8, 1939		
	√Herbert Hunt√	June 8, 1939		
	√William Kannady√	July 7, 1939		
	√George Busha√	August 15, 1939		
	√Chaney Byfield√	June 10, 1939		
	√Al Stutz√	June 11, 1939		
	√Alex Stockman√	June 5, 1939	48	2
	√Neil Arneson√	June 5, 1939	49	3
	√Ivan Smith√	June 24, 1939		
	√Harry Gunsalus√	June 12, 1939		
70	√Max Crooker√	June 5, 1939	50	4
	√Arlie G. Chaney√	June 6, 1939	51	
	√Cecil Runyon√	June 12, 1939		
	√Clarence Boylan√	May 31, 1939	52	5
	√B. J. Durick√	June 4, 1939	53	6
	√Charles Berry√	June 6, 1939	4	
	√Victor Norman√	June 6, 1939	5	
	√Morie Sperber√	June 5, 1939	6	7
	√Al Hendrickson√	June 6, 1939	7	
	√C. C. Sperber√	June 5, 1939	8	8
	√Joe F. Dobrovec√	June 5, 1939	9	9
	√Fred Chaney√	June 12, 1939		
	√Cecil Chaney√	June 12, 1939		
	√Earl Murphy√	June 9, 1939		
	√Sidney Moody√	May 29, 1939	60	50
	√Glen Brodine√	June 6, 1939	1	

(Testimony of Wes Raynor.)

NAME	DATE OF INITIATION	[See Note]	
√William Miller√	July 5, 1939	2	1
√Herman Helander√	June 15, 1939		
√Theodore Roekwell√	June 6, 1939	3	
√Burton Lutes√	May 29, 1939	4	2
√Arehie Peterson√	June 4, 1939	5	3
√Emery Hunt√	May 20, 1939	6	4
92√Jesse Nichols√	June 7, 1939		

[Printer's Note]: Figures in last two columns written in pencil on typewritten sheet.

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FRANK MOR,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Walker:

Q. What is your name?

A. Frank Mor.

Q. You reside in Sandpoint? A. Yes.

Q. What is your occupation? [679]

A. Woodwork, I work in the woods.

Q. What type of woods work do you do?

A. Anything I can get to work at.

Q. Did you do any woods work in the operative season of 1939? A. Yes.

Q. When did you do that?

A. I did it for the Long Lake Lumber Company.

Q. What kind of work did you do?

A. I was skidding poles.

Q. Do you remember the incident of the camp closing down in June, 1939?

(Testimony of Frank Mor.)

A. Yes, I remember that.

Q. Do you know Frank Robinson?

A. Yes, you bet I do.

Q. Do you know of a place called The Diamond?

A. Yes.

Q. Where is that situated?

A. Down here a couple of blocks.

Q. In Sandpoint?           A. Yes.

Q. At any time after the camp closed in June, 1939, did you see Mr. Robinson?

A. Yes, I did.

Q. Where did you see him? [680]

A. I saw him at The Diamond.

Q. About when was that with respect to the time that the camp closed down?

A. Oh, a little while after that.

Q. How many days had passed between the time when the camp closed down and when you next saw Mr. Robinson?

A. Oh, it was about four or five or six days, I would reckon.

Q. Did you have a talk with Mr. Robinson?

A. No; I didn't talk to him; I went to the lavatory and he was there with a fellow named Kirtley.

Q. (Trial Examiner Hektoen): Is this at The Diamond?

Mr. Walker: This is at the Diamond.

Q. Did you say anything to Mr. Robinson?

A. No, I didn't.

Q. Did he say anything to you?           A. Yes.

(Testimony of Frank Mor.)

Q. What did he say?

A. He said, that is what you are down here for, because you signed up with the C.I.O.

Q. He said "That is what you are down here for because you signed up with the C.I.O.", is that correct?      A. Correct.

Q. Did you say anything to him?

A. Well, I said, "That is why you are down here too, be- [681] cause you did not sign up with the C.I.O."

Q. You said, "That is why you are down here too, because you did not sign up with the C.I.O.", is that correct?      A. Yes.

#### Cross Examination

By Mr. Hunt:

Q. You went back to work for Mr. Robinson shortly after that?

A. No, quite awhile after that.

Q. About the 25th of July?

A. The 25th of July; yes.

Q. And you worked until the 12th of October?      A. Yes.

Q. And you got hurt then?      A. Yes.

Q. And you are using the crutch now as a result of that same injury you sustained on October 12th?

A. Yes; I have been laid up.

(Witness excused.)

(Thereupon at this time a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Hektoen: Come to order, please.

FRED CHANEY,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination [682]

By Mr. Walker:

Q. What is your name? A. Fred Chaney.

Q. You reside in Sandpoint, Idaho, Mr. Chaney?

A. Yes.

Q. What is your occupation?

A. Woods worker.

Q. How long have you been engaged in woods working? A. Say five or six years.

Q. During that time what different phases of woodwork have you done?

A. The most of my woodwork has been in the pole yard on cedar.

Q. Have you ever worked at Caribou?

A. I have.

Q. When did you first start there?

A. In 1938.

Q. What did you do at that time?

A. I was logging.

Q. How long did you work in the 1938 season?

A. The entire season, I believe.

Q. How did you get on that job?

A. A contract with Mr. Robinson.

Q. At the conclusion of the season did you see Mr. Robinson? A. I did.

Q. Did you have a talk with him at that time?

[683]

(Testimony of Fred Chaney.)

A. Yes.

Q. Will you state what you said?

A. Well, among other things he did say that he was well satisfied with my operations, as I had done a good, clean job.

Q. After the 1938 season did you ever again work at Caribou?      A. I did.

Q. And when did you next work there?

A. When?

Q. Yes.      A. In 1939.

Q. About when did you start in in 1939, do you recall?

A. I would not say the date; it was along around the last of May or the first of June.

Q. What type of work did you do in 1939?

A. Logging, skidding logs.      •

Q. Where were you situated in 1939?

A. Well, our camp is on the main road.

Q. When you say "our camp", what do you mean by that?      A. My camp.

Q. You didn't stay at the main camp?

A. No.

Q. Do you know Jim Morrow?      A. I do.

Q. Do you know where Jim Morrow was situated in 1939?      A. Yes. [684]

Q. Where were you located with respect to the Morrow location?

A. Three or four hundred yards or a quarter of a mile down the road on the main road.

Q. How did you go about this logging work, will you describe it, what you did?

(Testimony of Fred Chaney.)

A. Our job was to skid the logs and load them on trucks.

Q. Was that all that was required to be done by you?

A. Well, only we have to make our own trailers naturally.

Q. Did you have anything to do with the falling and bucking?      A. No.

Q. How did you do your skidding?

A. With horses.

Trial Examiner Hektoen: With what?

The Witness: Horses.

Q. (Mr. Walker): Whose horses were they?

A. My own.

Q. After you arrived at your location did you see Mr. Arden Davis at any time?

A. Oh, yes, I did; at the camp, of course.

Q. Do you remember the incident of the camp closing down in June, 1939?      A. I do.

Q. After you arrived at your location did you make any arrangements with Mr. Davis at any time relative to the supplies [685] required for the operation of your enterprise?      A. I did.

Q. About when did you do that with respect to the event of the closing of the camp?

A. I did that when we first started to work in the beginning, at the beginning of the season of 1939.

Q. What arrangement did you make with him?

A. The arrangement I made with him was to furnish me with hay and grain for my horses.



(Testimony of Fred Chaney.)

Q. Did you receive your supplies?

A. I did.

Q. About when did you receive those supplies with respect to the event of the closing of the camp?

A. Well, we received our first supplies when we first started to work, naturally, we had to have supplies for the horses, and then we received them right along whenever we needed them.

Q. With respect to the time the camp closed had you preceding that received some hay and oats?

A. We had.

Q. Did you learn of a Union meeting being held at the camp?      A. Yes.

Q. At the time the meeting was held did you know of it?      A. No.

Q. Upon the day there when the camp closed down, did you [686] work?

A. Yes, part of the day, anyway, part of the day.

Q. About what time of the day did you cease to work?

A. I can't just get those dates exactly in my mind; I would not attempt to say exactly.

Q. I don't care about the date, but you do recall the day upon which the camp closed?

A. Yes.

Q. On that particular day, you worked all of the day?

A. Yes, I can't say whether all day or not.



(Testimony of Fred Chaney.)

Q. About what time during that day did you cease to work?

A. Well, I can't say positively on that; it was along in the middle of the afternoon.

Q. With respect to the time when you ceased to work on that day, when did you first learn that the camp had closed?

A. Some time during the morning.

Q. How did it come to your attention?

A. I don't know how it came to my attention, but someone came down from the camp and told me that everything was all through.

Q. After you ceased work that day did you see Mr. Robinson at any time?

A. I don't know whether I saw him and had a talk with him that day or not; I would not say positively.

Q. After you had ceased working what did you do? [687]

A. Well, I did see Mr. Robinson after that sometime; I don't know whether that day or the next day.

Q. Did you have a talk with him then?

A. Yes.

Q. Will you relate what was said, please?

A. One thing he made arrangements about was, I could put my horses down in his pasture.

Q. You did make those arrangements with him?

A. Yes.

Q. And was there anything else said?

A. At that time?

(Testimony of Fred Chaney.)

Q. Yes, at that time, if you can recall.

A. Nothing particular that day.

Q. Have you any further recollection of anything which was said than the arrangement of putting the horses in the pasture?

A. Not at that time.

Q. Did you see Mr. Robinson again after that?

A. That day?

Q. That day; yes.

A. No, not that I know of.

Q. Did you see him again after that day at any time?

A. I saw him lots of times and had lots of conversations with him.

Q. What conversation, if any, did you have with Mr. Robinson the next time you saw him, if you can recall that? [688]

A. Well, I don't know as I could describe our conversations; we had so many of them during the time it was closed down; that is when you mean?

Q. Yes.

A. We had a lot of conversations, many times.

Q. Can you recall any conversation?

A. Well, one conversation I had with him. It was a little late, and pretty close to the time when they started to get ready to start up. I contacted him several times trying to get back on. One conversation was that he was—they were getting ready to open the camp again and I asked him downtown one day if he was going to put everybody

(Testimony of Fred Chaney.)

back on again, I was thinking of myself naturally. He said yes, he would put most everybody back on that he wanted on and he did say that he might put some on that would not later on be so hard to find an excuse to let them go again.

Q. How did that conversation come up, Mr. Chaney?

A. Well, I met him on the street at Sandpoint and asked him about getting back on.

Q. After this conversation did you ever go up to or up toward the camp?

A. Yes, I think so; I was up to the camp after that.

Q. Have you a son named Arlie Chaney?

A. I have.

Q. He went up toward the camp with you? [689]

A. I think, if I remember rightly it was my own place, if I remember right; I don't remember whether I went up there with Arlie or not.

Q. Did you go to the camp that day that you are speaking of now?

A. Yes, I think I did, I went to camp.

Q. Did you work that day?           A. No.

Q. Did you see Mr. Robinson that day?

A. I remember seeing him, I didn't have any conversation with him.

Q. After that particular time was there any other time when you went up toward the camp?

A. I was there, up there on the road; yes, sir.

Q. Who went with you on that day?

A. I believe I went up with Arlie that day.

(Testimony of Fred Chaney.)

Q. Did you see anyone when you arrived on the roadway?           A. Yes, I did.

Q. Who?

A. I could not name them all; there was quite a crowd.

Q. Did you see Mr. Robinson that day?

A. Yes.

Q. Will you describe what occurred as you drew up on the roadway there?

A. Well, there was quite a crowd on the road and the Caribou [690] Bridge seemed to be the dividing line between the two partisans. There was a bunch of people there who appeared to be Union men and Mr. Robinson was on this side of the creek with a bunch there and he wanted to know if I wanted to go up and go to work.

Q. Who said that?

A. Mr. Robinson. I said, yes, like the rest of the boys, we would come to work if we could. And he said, "Come on, here is the road; hitch your horses and we will go up." I looked up the road and said, "I don't think I would like to go up there; that crowd up there; there will be trouble; I am afraid. I don't believe it would do any good. I don't think I could make it."

Q. What did Mr. Robinson say?

A. He said he would protect me if I wanted to go up and see I got through with the horses all right.

Q. Did he do anything in that regard?

(Testimony of Fred Chaney.)

A. He offered to; offered to clear the road.

Q. Was there any obstruction on the road at the time?      A. Only the men.

Q. Did Mr. Robinson have his car there?

A. He did.

Q. Go ahead and relate what else occurred.

A. Well, among other things he asked my son if he wanted to go up and haul logs tomorrow; he had not a truck there; and [691] he said, like I did, he would not go through the picket line until they had made some kind of settlement amongst all of them.

Q. At any time you were by the bridge did Mr. Robinson leave?

A. He was up there two different times, I believe, and did at one time come back to town.

Q. After that did he return again to the bridge?

A. Yes.

Q. Was there anyone with him?

A. I think he brought Mr. Ratt up one of the times; he brought Ratt up; which time it was, I don't know.

Q. After Mr. Ratt arrived what took place?

A. Well, Mr. Ratt wanted to know of me whether I wanted to go to work.

Q. You were talking with Mr. Ratt, were you?

A. Yes, sir; he came and asked me, he said, "Do you want to go up; do you want to go up the road and go to the camp and go to work?" And I said, "Yes."

Q. Where was Mr. Robinson at the time?

(Testimony of Fred Chaney.)

A. He was near right by there. I said "Yes; I want to go to work, but I don't want to go to work until they get this thing settled." He said, "But, evidently, you don't want to go to work." I said, "I do, but I want it settled satisfactory so we can work in peace." He said, "If you [692] want to go through there I will open the road for you." I said, "I don't want to go that way."

Q. During any time that Mr. Ratt was there at the bridge was there anything else said about the Union?

Mr. Hunt: (Interrupting) By whom?

Q. (Mr. Walker) By Mr. Ratt.

A. Well, he did ask me if I was in sympathy with the Union or not.

Q. Did Mr. Ratt at that time say anything to any of the group who were on the east side of the bridge?

A. He wanted to know if the bunch—if they did belong to the Union or were in sympathy with the Union.

Q. Did he ask the group on the east side of the bridge to do anything to indicate whether or not they were in sympathy with the Union?

A. I don't remember it; I can't say that he did.

Q. What was Mr. Robinson doing during this time?

A. Well, he was doing quite a little storming up and down the road?

Q. Did he say anything?

(Testimony of Fred Chaney.)

A. Quite a lot.

Q. Can you recollect what he said while walking on the road? A. I don't remember it.

Q. Did *he* see Mr. Wise there? [693]

A. Yes.

Q. By the bridge? A. Yes.

Q. Did Mr. Wise have a conversation with Mr. Robinson? A. Yes, they did.

Q. Were you present?

A. No, not when they had it. Mr. Ratt asked Mr. Robinson if him—if Mr. Robinson, Mr. Wise, Mr. Johnson and himself would not go out on the bridge, which seemed to be the dividing line, and talk the thing over and try to settle it, just the four of them, and they did go up and have a conversation. But I was not present because I was not invited and I don't know what the settlement was but it didn't seem to be very satisfactory.

Q. At any time during this time that Mr. Ratt was there did Mr. Ratt say anything to Mr. Robinson other than attempting to get him to meet with Mr. Wise?

A. Well, he did say that, Mr. Ratt said to Mr. Robinson, "Apparently these boys don't want to go to work, they seem to be in sympathy with the Union, and under the circumstances—there is no violence going on—I cannot see any violence going on; there seems to be nothing else for me to do." And he proceeded to get ready to go back to town.



(Testimony of Fred Chaney.)

Q. How did Mr. Ratt know that the group on the east side of the bridge were in sympathy with the Union? [694]

A. Well, he asked them, I believe.

Q. He asked the group?

A. Whether they were in sympathy with the Union or not; they were not all Union men, you understand.

Q. Did Mr. Ratt ask the group on the east side of the bridge to demonstrate in any manner whether or not they were in sympathy with the Union?

A. Yes, I think he asked them if they would take a vote.

Q. How?

A. By raising their hands—all in sympathy with the Union.

Q. Did the men on the east side do that?

A. Yes.

Q. Did Mr. Robinson say anything when that occurred?

A. I could not say as to the words used but I think he said, it seems to me as if they are pretty much in sympathy with the Union; there wasn't very many dissenting votes, if any.

Q. At any time while Mr. Robinson was on the bridge after Mr. Ratt had told the group to raise their hands, did Mr. Robinson say anything referring to the C.I.O. in name?

A. Well, I don't know, I did say he said he would not recognize the Union.



(Testimony of Fred Chaney.)

Q. Now let's go back to this last day you worked there at the camp, the day on which the camp closed—strike that—Upon that day did you observe whether or not there was any [695] cars or group of cars driving on the main roadway by that camp?      A. Yes, there was.

Q. You saw that, did you?      A. Yes.

Q. Quite a group of cars were there?

A. Yes, several.

Q. Which way were they driving?

A. Is that the day the camp closed?

Q. Yes.

A. They were coming down the hill.

Q. About what time?      A. Well—

Q. About what time was it when you saw the cars coming down the hill?

A. I don't remember just what time of day it was.

Q. You had taken breakfast, had you?

A. I think so.

Q. And were already out on the job?

A. I think so.

Q. And did they, or did you have any curiosity as to why the cars were going down the hill?

A. I had heard they had been closed down.

Q. When you heard that did you have any curiosity as to why the camp was closed down?

[696]

Mr. Hunt: I will have to object to such an immaterial question. I think for him to state what was done by his place is better.

(Testimony of Fred Chaney.)

Trial Examiner Hektoen: That is what we are trying to get at and the witness has some difficulty with his memory.

Mr. Walker: Of course, the question alone it has nothing much to it but I am trying to refresh his memory.

(Thereupon the last question was read.)

A. I had heard that they had had a meeting the night before and that the camp had closed down that morning.

Q. Who did you hear that from?

A. From some of the boys who came down and stopped and told me.

Q. From whom were you drawing your compensation and your pay, in other words, when you were working at Caribou in 1939?

A. Who did I draw my pay from?

Q. Yes.

A. From Frank Robinson.

Q. With respect to the day when the camp closed, when did you receive your pay?

A. I guess it was the next day.

Q. Whose logging equipment were you using on your job?      A. My own.

Q. What was done with this hay and oats you received prior at the camp, prior to its closing down? [697]

A. What was left Mr. Robinson sent a truck down and got it and took it up to his barn.

(Testimony of Fred Chaney.)

Q. Had you made any arrangements to deliver that back, the hay and the oats?

A. No, no arrangements.

Q. And the hay and oats were taken back; did you receive any credit for that?

A. Yes; we did on our checks.

Q. Did you have any discussion with anyone about the credit for the hay and oats?

A. I think I did with Arden Davis.

Q. When did you have the discussion with Mr. Davis?

A. It was on the day we got our checks, whenever that was.

Q. Where did you have the discussion with Mr. Davis?      A. In his office.

Q. At the camp?      A. Yes.

Q. Was Mr. Robinson present?

A. I don't remember that he was.

Q. What kind of car does Mr. Robinson drive up at camp there?

A. I would not say, I know his car, however, it is hard to say.

Q. Is it a sedan? I don't mean the make.

A. I thought you meant the make; I thought you meant the make.

Q. The type? [698]      A. A sedan.

Q. Does he drive any other car at the camp sometimes?

A. A pickup sometimes; he drives a pickup.

Q. Is your camp anywhere near the forks in the road?

(Testimony of Fred Chaney.)

A. Right at the forks of the road; that is, one fork of the road; one goes up on the hill.

Q. Have you exhausted your memory on all the events which occurred on the day of the camp closing down?

A. I think I cannot think of anything in particular but might if you refreshed my mind.

Q. After you had ceased your operations on the day on which the camp closed down, didn't you meet Mr. Robinson in his car at the forks of the road?

A. I met him there several times but I can't just get that particular day.

Q. When did you first learn that the Union was being organized at the camp?

A. It was before we—before the meeting, several days before the meeting, when we went up on the side of the hill, we were cleaning up some skidways which we had skidded in 1938 and my son was hauling the logs and he had been approached by several of the men at different times asking him to join the Union, the whole camp, rather; they had never asked me because they had never contacted me but they asked him and he had put the proposition up to me and asked me and the rest in the camp [699] what we thought about it; he did not want to join it unless they all joined it; and we had a discussion over it. He didn't know just what to do, whether to join or not. In other words, we wanted to work, we didn't want to make any enemies on their side; we wanted

(Testimony of Fred Chaney.)

to be friends with all of them. And we were one day cleaning up the line on the skidways and Mr. Robinson came up in the pickup. I don't remember who was with him at this time, probably his son. And I asked him what he thought about it, whether we should join the Union, I wanted his opinion. He said he could not advise us; we would have to use our own judgment, and he asked me who was agitating it, who had been talking to me. And I said no one had been talking to me only Arlie, my son, but there had been men approaching him, several of them had asked him to join. And he asked who they were and I told him to the best of my ability who approached him.

Q. Did Mr. Robinson ever tell you that the Union had held a meeting at the camp?

A. I don't know whether he told me myself or not; he might have, I could not say positively.

Q. Did you ever learn what the demands of the Union Committee were which were presented to Mr. Robinson on the night when the Committee met Mr. Robinson?

A. Only from hearsay; yes, I heard.

Q. Who did you hear that from? [700]

A. I could not say exactly, I just heard the boys discussing it, what they were asking for; among other things was a roof; I would not say who, I don't know of any particular one; some were talking about it.

Q. At any time did Mr. Robinson discuss with

(Testimony of Fred Chaney.)

you what demands were made upon him by the Union?

A. He might have; I cannot just recall.

Q. Did Mr. Robinson at any time ever make a statement to you as to whether or not he would recognize the Union?      A. Yes.

Q. Other than this time down on the road when Mr. Ratt was there?      A. Yes, sir; he did.

Q. What did he say in that regard?

A. He said he would not recognize it.

Q. What else?

A. At one time, I don't know just exactly, it wasn't right at that time; at another conversation he said, he would kill the damned Union anyway.

Mr. Walker: That is all.

Trial Examiner Hektoen: Do you want to proceed now or do you wish to adjourn?

Mr. Hunt: We have to cross examine.

Q. (Trial Examiner Hektoen) Who was the man who went on the bridge to have the conversation at the time? [701]

A. Mr. Robinson and also Mr. Ratt and Mr. Johnson.

Q. And Mr Wise?      A. Mr. Wise.

Trial Examiner Hektoen: Don't talk about this to anybody during the lunch hour. We will be back at 1:30 p. m.

(Whereupon at 12 noon, the hearing was recessed until 1:30 p. m.) [702]

Afternoon Session

(Whereupon the hearing was resumed, pursuant to the taking of noon recess, at 1:30 o'clock p. m. as follows:)

Trial Examiner Hektoen: Proceed, gentlemen.

FRED CHANEY,

resumed the stand and testified as follows:

Cross Examination

Q. (Mr. Hunt) Mr. Chaney, you worked for Mr. Robinson in the season of 1938?

A. Yes, sir.

Q. Most of the season? A. Yes, sir.

Q. And at the end of the year Mr. Robinson said your work had been satisfactory?

A. Yes.

Q. And you went to work for him again in 1939 when the camp opened, skidding?

A. A few days after.

Q. A few days after you were skidding?

A. Yes, sir.

Q. When you went to work for Mr. Robinson in 1939, you had what is generally called a gypo job from him? A. Yes.

Q. Which consisted in giving you a strip of timber where you had complete charge of the logging of that? [703] A. Yes.

Q. Mr. Robinson paid you for your work?

A. Yes.



(Testimony of Fred Chaney.)

Q. And you skidded and were paid for that?

A. Yes, skidding and loading.

Q. He paid you for the sawing?

A. Yes. [704]

Q. After you talked to Mr. Robinson when it was understood that there was some talk about the organizing of the camp, you again talked to Mr. Robinson and asked him what he thought about your joining?      A. I did.

Q. And he told you at the time he could not advise you on those matters?      A. Right.

Q. Let us go to the conversation wherein somebody told you or said something about recognizing the Union and they were going to call a Union meeting or something to that effect. Did Mr. Robinson make that statement or did Mr. Herbert Johnson say Mr. Robinson had made that statement?

A. Mr. Robinson made that statement.

Q. And he made that statement directly himself?      A. Yes, to me.

Q. Did Mr. Johnson quote Mr. Robinson to you relative to what he said relative to the recognizing of the Union?

A. I did not talk to Mr. Johnson very much and I don't think [707] he ever did; I would not be positive.

Q. You saw Mr. Johnson up and down the road?

A. I know him.

Q. There were some dissenting votes at the time

(Testimony of Fred Chaney.)

that Mr. Ratt asked the men for those in sympathy with the Union?

A. I think so. I didn't take a part again.

Q. There was quite a discussion at the picket line one day when you were there? A. Yes.

Q. Did you hear Mr. Ratt say at the time that "When and if the men showed they had a majority in the Union he would recognize the Union, and would not recognize them at all until they showed they had a majority." Did you hear him make that statement or words to that effect?

A. I heard him say something to that effect, but I wasn't paying attention to what it was.

Q. You had no objection to Mr. Robinson taking the hay and grain back to the main camp, when it closed? A. No.

Q. It was the usual and customary thing to do?

A. It was necessary to take it or it would have been spoiled.

Q. When he took it back, he gave you credit for the hay and the oats? A. He did. [708]

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EARL DAVIS,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Walker) What is your name?

A. Earl Davis.

(Testimony of Earl Davis.)

Q. You reside in Spokane, do you? [712]

A. Right.

Q. And what is your occupation?

A. Timber work.

Q. Mr. Davis, have you ever worked at what is commonly called the Caribou Basin?

A. Yes.

Q. When did you first work there?

A. In the Fall of 1937.

Q. What work did you do at that time?

A. Scaling logs.

Q. What kind of logs were scaling?

A. White pine logs at that time.

Q. Do you remember the incident in the white pine operation season, at the end of the year 1937 season, when the camp closed down?

A. The cutters stopped about the same time the camp closed down, or a little before.

Q. Did you continue on in the Caribou Basin after that?

A. Yes, I scaled about a month and a half and continued on with other work after that.

Q. What was the next kind of work you did?

A. Making posts, cedar posts.

Q. How did you happen to take over the cedar job?

A. To have something to do.

Q. Did you make this arrangement with anyone? [713]

A. Yes.

Q. With whom? A. Mr. Brown.

Q. Mr. Brown, Sr.?

A. Yes; Mr. Brown, Sr. and Mr. Breen.

(Testimony of Earl Davis.)

Q. How long did you continue on the cedar work then?

A. Oh, approximately a year, I guess, until the next fall.

Q. Did you have anyone working with you on that cedar work?      A. Yes.

Q. Can you state who they were?

A. Some of them I can: Armon Garvin, Boyd Stevens, Harry worked a few days too.

Trial Examiner Hektoen: Harry Garvin?

The Witness: That is right.

Trial Examiner Hektoen: We have Harry Garvin, Armon Garvin and Boyd Stevens.

The Witness: Mr. Ramsey also worked there, a fellow by the name of Ramsey. They have moved out now.

Trial Examiner Hektoen: Anybody else?

The Witness: Boyd Stevens' brother worked there awhile.

Q. (Mr. Walker) Who showed you where your strip was when you started in on this cedar work?

A. No one showed me.

Q. From whom did you receive your pay?

A. Mr. Robinson. [714]

Q. What was the basis of that?

A. The basis of the pay?

Q. Yes.

A. Well, it was different on different kinds of work; I had posts and logs at different prices.

Q. Were you paid by the thousand?

A. It was all piece work.

(Testimony of Earl Davis.)

Q. At the conclusion of this cedar work, did you ever again work in the Caribou Basin?

A. Yes, I worked there after that.

Q. Were you at Caribou Basin the month of June, 1939? A. Yes, sir.

Q. Do you remember the incident of the camp closing down in 1939? A. Yes, sir.

Q. With respect to the day upon which the camp closed down in 1939, when did you first arrive at Caribou?

A. The evening that it closed, the evening the camp closed.

Q. When you arrived at Caribou where did you stay? A. That night?

Q. Yes.

A. I stayed at one of the smaller camps.

Q. Did anyone or did anything take place at the main camp that night?

A. They had a meeting, a Union meeting. [715]

Q. Did you attend that meeting? A. I did.

Q. Did you see Mr. Brown, Jr. that evening?

A. Not that I recall.

Q. Were you still at Caribou the next morning?

A. I went back up there the next morning.

Q. Did you see anyone when you arrived at the main camp the next morning?

A. I saw people, of course; it wasn't deserted entirely.

Q. Did you see Mr. Brown, Jr. the next morning? A. Yes, sir.

(Testimony of Earl Davis.)

Q. Upon arriving at the main camp the next morning, did you have a talk with Mr. Brown, Jr.?

A. I think I did.

Q. Do you recall when that talk took place?

A. In the camp.

Q. What was said at the time?

A. I can't recall anything which was said.

Q. Were the men working that morning, do you know?

A. I think not.

Q. Were the men still around the camp at the time you arrived at the main camp?

A. Some of them.

Q. What were the men doing?

A. Most of them were getting ready to leave.

[716]

Q. You noticed that, did you?

A. It was very evident.

Q. Was there any conversation with Mr. Brown, Jr. respecting that occurrence of the men leaving?

A. No.

Q. Did you inquire of anyone why the men were leaving?

A. No.

Q. Did you have a talk with Mr. Robinson that morning?

A. I don't think so; if he was there, I suppose we spoke, but we had no talk with regard to the trouble.

Q. Did you remain at the camp all that day?

A. No.

Q. Did you leave the camp?

A. I did.

Q. Where did you go?

A. To Spokane.

(Testimony of Earl Davis.)

Q. Prior to the time you left for Spokane did you tell anyone you were going to Spokane?

A. I don't know whether I did or not.

Q. Did you tell Mr. Brown, Jr. you were going to Spokane?      A. I think I did.

Q. Did he make any reply to you?

A. He said I might just as well go.

Q. What else?

A. Until the trouble was settled I might just as well go; I [717] don't know whether he said anything more about it.

Q. When in Spokane did you make any calls at the Long Lake Lumber Company's office?

A. Yes.

Q. Did you see any of the officials of the Long Lake Lumber Company when you arrived at the office?      A. You always see them there.

Q. Who would that be?      A. Mr. Brown.

Q. Dave Brown or Mr. Brown, Sr.?

A. Some of them.

Q. Or both?

A. Yes, I saw both of them during that day.

Q. Did you have any talk with Dave Brown or Mr. Brown, Sr. or both of them or either of them at any of these calls at the Long Lake Lumber Company's office respecting the Caribou operations?

A. I talked to Jim Brown, Sr. about it.

Q. What was the conversation?

A. It would be hard to recollect it now.

Q. Can you give the substance of it?



(Testimony of Earl Davis.)

A. He wanted to know what I knew about the trouble which had happened, what I knew about it and in regard to that meeting.

Q. What was it about the meeting he inquired?

A. That is the extent of it, I guess. [718]

Q. At the Union meeting that night at the camp, the Union elected a Committee, did they?

A. That is right.

Q. After the Committee was elected, what did the Committee do?

A. It went up to see Mr. Robinson.

Q. When you were in the Long Lake Lumber Company office with Mr. Brown, Sr., talking to him, was there any reference made to that occurrence in your conversation?

A. Not that I recall.

Q. What did the Union membership send the Union's Committee to call on Mr. Robinson about?

A. I don't know about that.

Q. Did the membership discuss some of the demands relative to the conditions of the camp to be presented to Mr. Robinson?

A. Yes, they said they would first get him to recognize the Union and present their grievances later, after he recognized the Union; then that would be some time later. I think that—I think they had some too that night.

Q. When you were in the Long Lake Lumber Company's office talking to Mr. Brown, Sr., was there any reference made to any demand made upon Mr. Robinson by the Union Committee?

(Testimony of Earl Davis.)

A. I cannot tell whether there was or not.

Q. Do you know who constituted the Union Committee that night, the individuals?

A. No, I was there when they elected them but I don't know [719-720] them.

Q. You remember Mr. Boyd Stevens?

A. Yes.

Q. He was one of them?

A. Yes; and Mr. Wise was one of them.

Q. At this time in the Long Lake Lumber Company's office was there any inquiry from Mr. Brown respecting who constituted the Union Committee?      A. I don't think so.

Q. Did you volunteer and tell him who the individuals were which constituted the Union Committee?      A. I don't know.

Q. Did Mr. Brown, during that conversation, make any inquiry about the conditions at that camp?      A. No.

Q. Had you signed a card in the Local that night?      A. No.

Q. Was there any discussion between yourself and Mr. Brown, Sr. as to whether or not you were a member of the Union?

A. I think he asked me once but I am not sure whether it was this time or not; he asked me once why I didn't join it.

Q. After this time that you have just described when you were in the Long Lake Lumber Company's office, did you call at the Long Lake Company's office again?

(Testimony of Earl Davis.)

A. I was in there several times during this time but I don't [721] know.

Q. During the interval when you were in Spokane had you received a formal offer of any other employment?

A. Yes, I had chances to go to work and I did do some work.

Q. Did you have a discussion with Mr. Brown, Sr. about that other work at any time during the period you were in Spokane?      A. Yes.

Q. What was the discussion?

Mr. Hunt: Objected to as immaterial.

Trial Examiner Hektoen: Let the question be answered subject to that objection and a subsequent motion to strike the answer.

A. Yes, sir.

Q. (Trial Examiner Hektoen) What was the discussion?

A. He told me he thought the trouble up here would be settled; that it would be a long job, and that I had better wait for that.

Q. (Mr. Walker) Did you have a discussion with Mr. Robinson about the Union at any time?

A. No.

Q. Now, Mr. Davis, can you recall anything further which was said between yourself and Mr. Brown, Sr. during any of your calls at the Long Lake Lumber Company's office during the period which you were in Spokane?      A. No. [722]

Q. Mr. Davis, at the time you called at the Long Lake Lumber Company's office during the period

(Testimony of Earl Davis.)

when you were in Spokane and conferring with Mr. Brown, Sr., did Mr. Brown state to you that he wanted you to tell him the truth, regardless of who was hurt?      A. That is right.

Q. And he also at that time asked you about camp conditions? [726]      A. No.

Q. At that time did he ask you about the Union demands?

A. I think that was it; I think he did.

Q. And at that time you told him what the Union demands were?      A. Yes.

Q. And he also asked you at the time who constituted the Union's Committee?

A. I would not be sure of that.

Q. Mr. Davis, I hand you what is marked Board's Exhibit No. 7 for identification and call your attention to the next to the last sentence on the 5th paragraph of the 1st page thereof.

A. Well, the conversation was along that line, I would not say for sure.

Q. Along what line?

A. About the troubles; I would not say for sure whether he—whether it was the camp conditions or the conditions of the demands made; maybe both.

Q. Does it refresh your memory now that Mr. Brown, Sr. asked you who the individuals were who constituted the Union Committee and that you told him?

A. I would not say whether he did or not.

Q. Referring to the next to the last sentence in

(Testimony of Earl Davis.)

the 5th paragraph of the first page of what is marked Board's Exhibit 7 for identification.

A. Where is that? [727]

Q. I am sorry.

(Counsel points out to the witness the sentence on which he is interrogating.)

A. That has been quite a long while ago, since that conversation took place.

Q. Is your memory now refreshed?

A. No, I would not want to say one way or the other what took place, what the conversation was; it was along those lines and it might be.

Q. You have just now refreshed your memory by referring to the next to the last sentence of the 5th paragraph of the 1st page of what is Board's Exhibit No. 7 for identification.

A. Yes.

Q. And you just now read it? A. Yes.

Q. Does it refresh your memory that Mr. Brown, Sr. at that time in the office asked you who constituted the Committee and that you told him?

Mr. Potts: I object to the repetition and also to the question as improper cross examination and beyond the prohibited period for confronting him with the prior statement.

Trial Examiner Hektoen: Overruled.

(Thereupon the last question was read.)

A. No, I would not say I signed a statement to that effect but I don't say—it was along those lines but not what—I [728] would not swear I told him that.

(Testimony of Earl Davis.)

Q. (Mr. Walker) That has really been some time ago, but did you make the statement to Mr. Roll on the date it says? A. Yes.

Mr. Potts: What is that statement dated?

Mr. Walker: I am sorry; October 18, 1939.

#### Cross Examination

Q. (Mr. Potts) Mr. Davis, how did you happen to be at Caribou camp in the early part of June, 1939; were you working there at the time?

A. June, 1939?

Q. June, 1939.

A. I went up there to go to work.

Q. But you had not started to go to work?

A. No.

Q. Do you recall just about how long you had been there before the camp closed down or when it closed down?

A. I got there the evening of the day it closed down.

Q. In other words, you arrived in camp just before this so-called Union meeting?

A. That is right.

Q. You were not yet employed by Mr. Robinson? A. No.

Mr. Walker: Objected to. Just a moment.

Mr. Potts: I want to state it correctly. [729]

Q. (Mr. Potts) Were you employed by Mr. Robinson at that time? A. No.

Q. Had you gone to the camp seeking employment or did you have an arrangement for employment before you went there?



(Testimony of Earl Davis.)

A. I had an arrangement to take out more posts, similar to what I did the year before.

Q. To take out more posts? A. Yes.

Q. Now, when you took out these posts, was it in 1937 or 1938?

A. I started in the Fall of 1937 and worked on through until 1938.

Q. You worked on that job practically a year?

A. I worked on that job practically a year.

Q. They were cedar posts, were they?

A. Yes.

Q. Were they fence posts? A. Yes, sir.

Q. Making posts is not particularly a part of logging operations, is it?

Mr. Walker: Wait. I object to that as calling for a conclusion.

Trial Examiner Hektoen: Are you thoroughly familiar with timber work in all its branches? [730]

The Witness: I think so.

Trial Examiner Hektoen: I think he may answer.

(Thereupon the last question was read.)

A. No, it would not be classed as a logging operation.

Q. (Mr. Potts) That is what I mean, in the ordinary logging operation, they do not make cedar posts as part of the logging of timber?

A. No.



(Testimony of Earl Davis.)

Q. This was a special job you had up there, or arrangement? A. Yes. [731]

Q. Did the visit that you made to the Long Lake Lumber Company's office in Spokane, about which you have testified, occur in connection with the cedar pole transaction or have anything to do with it? In other words, your transactions in connection with the cedar posts caused you to go to the Long Lake Logging Company's office on any business matters, or do you get what I am trying to get at?

A. Yes, I know; I am not sure whether it was in regard to posts or what.

Q. Were you or weren't you indebted to the Long Lake Lumber Company for those posts during the year 1939? A. Yes. [733]

Q. That is what I was drawing your attention to, whether or not you had occasion to call at the office in connection with that transaction.

A. I have been there several times on that.

#### Redirect Examination

Q. (Mr. Walker): Were you also indebted to the Long Lake Lumber Company for a truck?

A. Yes, I trucked myself there; that is for Dave Brown instead of the company.

Q. That was the truck you used for the purpose of hauling cedar posts? A. Yes.

Q. During all the time you worked in cedar you were receiving all your checks from Mr. Robinson, weren't you?

A. Well, I was paid; while I was up here, I did.

(Testimony of Earl Davis.)

Q. The areas where you did the cedar work were the same areas where the white pine logging had been done, is that correct?

A. Yes; but in some of the areas there was no white pine.

Q. Some of the cedar posts you made you sold as an individual enterprise, is that correct?

A. Yes.

Q. And those you didn't sell yourself, what did you do with them?

A. I yarded them at Samuels. [734]

Q. And were the posts which were yarded at Samuels ultimately delivered at Spokane?

A. Part of them.

Q. To the Long Lake Lumber Company?

A. Part of them and part of them I took right on out and sold.

Q. Those you did not sell, those were delivered to the Long Lake Lumber Company in Spokane, is that correct?

A. Yes. They shipped some of them; they loaded some of them out here. [735]

## ARDEN DAVIS,

recalled as a witness by and on behalf of the Board, having been previously sworn, was examined and testified as follows:

## Direct Examination

Trial Examiner Hektoen: You were sworn the other day?

The Witness: Yes.

Q. (Mr. Walker): Mr. Davis, referring to all of the individuals listed on Board's Exhibit No. 6, will you describe the type of work done by Mr. Jack Bopp?

A. He helped in the office; he was my assistant.

Q. Are there any other clerical or office employees other than yourself and Mr. Bopp?

A. No.

Q. Are all the other individuals who are listed on what is marked Board's Exhibit No. 6 engaged in either production or maintenance work?

A. Yes.

Q. They are?           A. Yes. [751]

Mr. Walker: That is all. May we have a recess?

Trial Examiner Hektoen: For how long?

Mr. Walker: Until my witness arrives. I have sent for him.

Trial Examiner Hektoen: All right. We will take a ten-minute recess and after that until he comes.

(Thereupon at this time a twenty-minute recess was taken, after which proceedings were resumed as follows:)

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CECIL CHANEY,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (Mr. Walker): What is your name?

A. Cecil Chaney.

Q. Where do you reside?

A. Osburn, Idaho.

Q. Osburn, Idaho?           A. Yes.

Q. Prior to that where had you lived?

A. I lived in Sandpoint or Dover.

Q. What is your occupation?

A. Timberman.

Q. Have you ever worked at what is commonly known as the Caribou Basin?           A. Yes. [752]

Q. When did you first begin working there?

A. In 1938.

Q. How long during that season did you work there?

A. I worked up there all summer.

Q. What kind of work did you do that season?

A. Gypoed, skidding and loading.

Q. Following the 1938 season, did you again ever at any time work at Caribou?           A. Yes.

(Testimony of Cecil Chaney.)

Q. When did you next work there?

A. I don't know just how long I did—I don't know just when I did start.

Q. Was it in 1939?

A. Yes; in the spring of 1939.

Q. What type of work did you do at that time?

A. In 1939? Gypoed, skidded and loaded as we did before.

Q. Who do you mean by "we"?

A. There were four of us in there together; father, Cecil Runyon and Harry Gonsalus.

Q. Do you remember the incident of the camp closing down?      A. Yes.

Q. Did you work there that day?

A. Worked until noon.

Q. Then what did you do?

A. We went home. [753]

Q. Before going home did you do anything? Let me put it this way: When you say you went home, do you mean you returned to Sandpoint?

A. Yes, sir; I went to Sandpoint when we left and nobody else worked so we did not either.

Q. Between the time you quit work and you had left the camp, what did you do during that period?

A. Well, we just went up to the camp to find out how long we were going to be closed down.

Q. Did you see anyone at camp?

A. Yes, we saw Mr. Robinson.

Q. Did you have any talk with him at the time?

A. Yes.

Q. Will you relate what was said?

(Testimony of Cecil Chaney.)

A. He said it was pretty rainy and he would have to close down for awhile until further notice and would let us know when to come back again.

Q. Whose horses were you using at the time?

A. My father's; I was buying one team myself but I didn't get very far with it.

Q. You were staying, were you, during the time you were working in Caribou?

A. At the trailer house, the four of us.

Q. At this time in the camp was there any discussion with Mr. Robinson about this trailer house?

[754]

A. No, I don't think there was.

Q. What did you do with your trailer house?

A. We left it up there with the intention of going back to work again.

Q. How did you happen to leave the trailer house up there?

A. We figured we were going back to work soon and we didn't want to take it home and then back again.

Q. Subsequent to this time did you sign a card in Local 119?

A. I don't just understand that; right at that time?

Q. No, not at that time.

Trial Examiner Hektoen: After that time.

Mr. Walker: After that time.

A. After that date?

Q. Yes. The day upon which the camp closed down, did you then sign a card in the Local?

A. No, it was after the camp had closed.

(Testimony of Cecil Chaney.)

Q. Did you have any discussion with Mr. Robinson about the Union?

A. Yes, yes, we had at different times talked about it.

Q. Can you recall what was said?

A. No, I could not say just as to what was said.

Q. During the period between when you left camp or when you had ceased to work and the time when you arrived in Sandpoint on that day, did you have any discussion with Mr. Brown, Jr.?

A. Yes, we took him—we gathered up our loading outfit and [755] rigging and we were locking it up in the trailer house and we took the jammer at that time.

Q. What was said at that time?

A. Jim said he didn't think it would be very long before we were starting back to work again and I asked him if he thought we should take the outfit home or leave it there, that if we were going to work again we better leave it out there. He said, "That is what I would do if I were you, leave it out there for awhile and see how things turn out."

Q. During the period the camp was closed down did you at any time go up the road toward the camp?

A. When the camp was closed down?

Q. Yes.

A. Well, I don't know as we ever went to the camp, no.

Trial Examiner Hektoen: Did you go up the road toward the camp?



(Testimony of Cecil Chaney.)

The Witness: Yes, we went up to get our horses.

Q. (Mr. Walker): Did you take the horses to camp?

A. No, we turned them loose up there at that time; we were through; and they got out and we went up and got them on the Pack River road and put them into pasture; Frank's pasture.

Q. Do you know Warren Ratt? A. Yes.

Q. Do you know Allen Asher? A. Yes.

[756]

Q. Do you know Hugh Thurlow? A. Yes.

Q. Were you ever on this road toward camp at any time when these last three individuals were also there? A. Yes, I was.

Q. Did you see anyone else other than those three individuals?

A. Yes, there were lots—practically the whole camp was there.

Q. Did you see Mr. Robinson there?

A. Yes; he came down.

Q. Who was with you on that day?

A. My father and Cecil Runyon, and I would not say whether Gonsalus was there or not, he was helping us, whether he was along with us that day I don't remember.

Q. Your father's name is Fred Chaney?

A. Yes.

Q. Have you any brothers? A. Yes, two.

Q. What are their names?

A. Arlie Chaney and Rollo Chaney.

(Testimony of Cecil Chaney.)

Q. Were either of your brothers with you?

A. Yes, sir; Arlie was with me, he was up there, he had the truck.

Q. What occurred at this time on the road?

[757]

A. Well, Mr. Ratt came up there and wanted to know what was all the trouble about and said he understood there was violence up there and he came up to straighten it out and said, "I see there is not any; why don't you fellows go along to work?" And there was a picket line across the bridge and we asked him if he thought it was showing good judgment to go across the picket line. And he said, "If you want to go to work there, go ahead." And we told him we wanted to work but we didn't want to go through there and he said, "I don't believe you want to work, or you would go on and go to work."

Q. Did Mr. Ratt talk with Mr. Robinson at any time during that period?

A. He was there, I would not say; I didn't really notice them talking together or not.

Q. Did Mr. Ratt address some other inquiries of the men with you other than that about you men not wanting to work?

A. To the truck drivers, he did; he asked them what was holding them up and they told him they didn't want to go through the picket line and Mr. Ratt told them the same as he did us. And he said he would see the road was clear and we could

(Testimony of Cecil Chaney.)

go to work if we wanted to; but I guess nobody wanted to go through the picket line.

Q. Did Mr. Ratt inquire of the group with you and the truckers anything further than what you have said?      A. No, not that I can remember.

[758]

Q. What was Mr. Robinson doing at this time?

A. He was there, I didn't see he was talking to anybody.

Q. Did Mr. Robinson voice any remarks generally?

A. Well, I don't—there is a lot of that I don't remember; I don't remember much about it now, I don't remember.

Q. At any time when Mr. Ratt was there did he ask the group and the truckers to indicate in any manner whether or not they desired to go to work other than by voicing the statement?

A. No, I could not answer that either.

Q. Did Mr. Robinson talk to your brother at any time during that period?

A. Yes, he talked to my brother up there that day.

Q. What did Mr. Robinson say to your brothers?

A. He asked them if they wanted to go and haul logs. *He* said, "Yes." And he said, "Follow me and we will go up and get some logs."

Q. After Mr. Robinson said that did he do anything?      A. No.

Q. Did he have his crew there?

A. Yes, he had his crew there.

(Testimony of Cecil Chaney.)

Q. What did he do with the crew?

A. After they got through talking, after he got through talking with the truck drivers he went up toward the camp for a few minutes and came back again.

Q. When he came back did he say anything to your brother? [759]

A. He told him if he wanted to haul logs "come on, if you don't; he would have to get another crew of truck drivers."

Q. What did your brother say about that?

A. He said "You will have to go ahead and get them because I won't cross the line."

Q. What did Mr. Robinson do then?

A. He left.

Q. He what?

A. He left there where we were.

Q. Did you return again after that?

A. No, I don't believe he did. Mr. Ratt, Mr. Thurlow and Mr. Asher, they all left then when they saw there was nothing they could do.

Q. Did you know a Mr. Herbert Johnson?

A. No.

Q. Did you know a Leon Wise? A. Yes.

Q. Did you see him there that day?

A. Yes.

Q. Where did you see him?

A. He was across the Caribou bridge.

Q. On which side of the bridge?

A. On the side next to the camp.

(Testimony of Cecil Chaney.)

Q. That would be west?

A. That would be west. [760]

Q. Or east?

A. It would be southwest—or south.

Q. Would it be on the side furthest removed from Sandpoint?      A. Yes.

Q. Did you see him on the bridge at any time?

A. Yes, I did.

Q. Was anyone with him?

A. Yes, Mr. Johnson; I don't know his first name.

Q. Was anyone else besides Mr. Johnson and Mr. Wise there?

A. At the time I remember there was just the two of them.

Q. Did they talk with Mr. Robinson at any time?

A. Yes, they came over there and talked to him.

Q. How did they happen to come over there, do you know?

A. Well, I went over there, and figured if they intended to open the camp again.

Q. Did they talk with Mr. Robinson?

A. A little; not very much.

Q. Did you hear what was said?

A. No, I didn't.

Q. Did they talk with Mr. Ratt?      A. Yes.

Q. What did they say and what did he say?

A. Well, Mr. Ratt asked Mr. Johnson what he wanted and he said they wanted the Long Lake Lumber Company to recognize the Union. [761]

(Testimony of Cecil Chaney.)

Q. Where was Mr. Robinson at this time?

A. He was along there someplace; I don't know exactly where.

Q. After Mr. Johnson said that, what else was said?

A. Well, I don't know if there was anything much said after that.

Trial Examiner Hektoen: What we want to do is to get the conversation as far as possible. It may not seem important to you, you may not attach importance to it at all, so if you can remember anything, tell it; and if you cannot remember anything, say so. However, just do the best you can.

The Witness: That is what I am doing.

Q. (Trial Examiner Hektoen): Do you remember anything else about it at all?

A. The only thing is that Mr. Johnson asked Frank if he would recognize the Union and he said, "No."

Mr. Walker: Let us go back to this day when the camp shut down, Mr. Chaney. Is there a fork in the road near where your camp is situated?

The Witness: Yes, about a half a mile below, I would say.

Q. (Mr. Walker): On that day when the camp closed down did you have a talk with Mr. Robinson near the forks of the road?

A. No, I don't remember as we did.

Q. Did you see Mr. Robinson first at the main camp or down at your camp? [762]

(Testimony of Cecil Chaney.)

A. Down at our camp.

Q. He came down there?

A. He came down there.

Q. Did you talk with him at the time?

A. Yes, sir.

Q. What was said at the time?

A. Mr. Runyon did the talking most of the time there; I was in the trailer house until along about the last; and when I went out he said he would just as well take the outfit and take them home.

Q. Did you hear what Mr. Runyon said?

A. No, I didn't, at the first, I don't know what he said.

Q. Your camp is situated near the road, is it?

A. Yes; right there.

Q. And on that morning did you see any cars traveling on the road?

A. Yes; there were lots of them went down.

Q. Going down?           A. Going down.

Q. About what time of day was it when you saw them?

A. It was in the morning; I don't know what time in the morning, sometime.

Q. Was that an unusual occurrence?

A. Yes, sir; they generally go the other way if anything.

Q. Did you see the cars going down? [763]

A. Yes, sir.

Q. Did it cause any wonder in your mind?

A. Yes, sir; we did wonder what it was all about.

Q. Did you learn?           A. Yes.



(Testimony of Cecil Chaney.)

Q. Who did you learn that from?

A. When Frank came down he told us the camp was shut down.

Q. Whose logging material were you using at the time?      A. Father's.

Q. After the talk down at your trailer house did you talk with Mr. Robinson again that day?

A. Not as I remember; I don't think we did.

Q. Did you go up there—did you gather up your rigging?      A. Yes.

Q. After gathering it up, what did you do with it?      A. We put it in the trailer house.

Q. After you put it in the trailer house, what did you do?      A. We came to Sandpoint.

Q. Before coming to Sandpoint did you go to the main camp?

A. I don't remember whether we went up there that day or not.

Q. When did you have a talk with Mr. Brown, Jr.?

A. When we gathering up the rigging, about 300 yards below the trailer house.

Q. Between this date when the camp closed down and the day [764] Mr. Ratt came up to the Caribou road, was there a period in there when you and your father did go up to the camp?

A. Yes, sir; we went up to the camp.

Q. On that day did you see Mr. Robinson?

A. Yes, sir; we did.

Q. Was there any conversation with him on that day?

(Testimony of Cecil Chaney.)

A. Well, we asked him how long it was going to be before we went back to work and he said he didn't know, when he got ready to go back to work he would let us know.

Q. Was your brother Arlie a member of the local at that time on this particular day?

A. Yes.

Q. Did you have any discussion with Mr. Robinson about your brother?      A. In what way?

Q. About whether or not your brother had signed a card in the local?

A. Well, I know my brother asked Frank if he should join and he said that was all right to join the Union and he said, "You use your own judgment on that."

Q. Anything else?      A. No, I think not.

Q. You mean there was nothing more said or there was nothing more that you recall was said?

A. I don't remember whether there was anything more or not. [765]

Q. After you have stated what you have, have you exhausted your memory of what was said during that period?      A. Just about.

Q. All right. Was there any talk with Mr. Robinson as to whether or not—whether or not he had had any prior experience with the Union?

A. Yes, sir; I heard him say something, I don't know what he said. He said he busted one Union and would bust this one too. [766]

## JAMES M. BROWN, SR.,

previously sworn, was recalled and further testified on behalf of the Board as follows: [786]

Q. Can you give the total log scale for the year 1939?

A. The total log scale, in round numbers, is 37,000,000.

Q. And will you state how that is broken down, and, particularly, as to the Caribou Basin?

A. This is very close,—it is a figure I didn't have, and didn't know until this morning; but out of that we cut 7,900,000 from Robinson, and the only difference would be in the amount we would receive down there,—that would be the difference in the two inventories, which would be almost infinitesimal. So you can use that as a basis, safely.

Q. Mr. Brown, can you give the value of the log scale for the year 1939?      A. Value?

Q. Yes. [789]

A. You told me it was not necessary to get that.

Trial Examiner Hektoen: Well, I think it would be valuable to have it. Have you a rough estimate?

The Witness: I could make a rough estimate by figuring 20 or 30 minutes.

Trial Examiner Hektoen: Well, if you find it convenient to do that, we would like to have the figures.

Mr. Potts: Is that the entire value of the entire log scale?

Mr. Walker: It was on the value and sales that were broken down.

(Testimony of James M. Brown, Sr.)

A. I might have misunderstood you. I asked about both.

Q. (Mr. Walker) I see. What was your total volume of sales for the year 1939 in terms of board feet?

A. Well, I already answered that; it is about fifty million.

Q. Of that total cost, what percentage constitutes the sales from outside of the State of Washington, or made to points outside of the State of Washington?

A. Anywhere from 60 to 75 per cent.

Q. Now, of the total value of sales in the year 1939, approximately what percentage would constitute sales outside of the State of Washington?

A. Oh, probably the same, or a shade more; about the same. [790]

May I ask, where do you want the value of those logs?

Q. What do you mean?

A. FOB our mill, Spokane, or FOB shipping point?

Trial Examiner Hektoen: I don't know.

Q. (Mr. Walker) Would there be any difference in the figures?

A. I should say there would; there would be a tremendous difference.

Q. There would be a difference in transportation, you mean?

A. There would be transportation and unloading, yes.

(Testimony of James M. Brown, Sr.)

Q. Well, let us say FOB the mill.

A. FOB the mill?

Q. Is that term used?

A. Yes, that is correct.

Q. Do you recall where you were on Tuesday, June 6, 1939?

A. No, I don't. I spent plenty of time trying to figure it out, myself.

Q. You have a summer home at Hayden Lake?

A. Yes. [792]

Q. Do you recall whether or not you were at the Lake over the weekend preceding June 6, 1939?

A. I am not sure there is where I was; I think I was there, but I am not sure.

Q. Now, do you recall whether or not you engaged in a telephone conversation with Mr. Robinson on Sunday, June 4, 1939?      A. No.

Q. Do you recall whether or not you engaged in a telephone conversation with Mr. Robinson on Monday, June 5, 1939?

A. I don't recall; I am not sure.

Q. Now, do you recall whether or not you placed or received a call on the fore part of Tuesday, June 6, 1939, at your Hayden Lake resident?

A. Well, if Mrs. Brown were here,—she is now in California,—I am pretty sure that day I was several miles away from the telephone. I am not positive—one of those days I was there.

Q. Now, on the evening of June 6, 1939, did you engage in a telephone conversation with either your

(Testimony of James M. Brown, Sr.)

son or Mr. Frank Robinson, about 7 o'clock in the evening?

A. I don't recall, but I think that is the day I would have been a long ways from the telephone; and would still have been away until late in the evening.

Q. Well, do you recall whether or not on June 6, 1939, you [793] engaged in a telephone conversation with Mr. Robinson, or your son, at approximately 7:30 that evening? A. What date?

Q. Tuesday, June 6, 1939?

A. I don't recall.

Q. Have you any knowledge of Mr. Robinson executing a chattel mortgage to the Bonner County National Bank on or about March,—during the month of March, 1939?

A. I don't know what date it was, but I know that he executed one.

Q. And did the Long Lake Lumber Company execute to the Bonner National Bank,—Bonner County National Bank, by a separate written instrument, a guarantee of repayment of the principal sum? A. You mean for the mortgage?

Q. Yes. A. No.

Q. Did you have any negotiations with Mr. Von-Canon at the time the mortgage was under discussion? A. Prior to the mortgage?

Q. Yes. A. No.

Q. After the mortgage was executed?

A. No.

Q. Or did your brother, Mr. Dave Brown? [794]



(Testimony of James M. Brown, Sr.)

A. No. I don't know whether he saw Mr. VonCanon.

Trial Examiner Hektoen: Who is Mr. VonCanon?

The Witness: Mr. VonCanon is the gentleman that I was trying to get to play bridge with. We play bridge every time we get together.

Trial Examiner Hektoen: I take it he is an officer of the bank, or he acts like it?

The Witness: Yes, he acts like it.

Q. (Mr. Walker, continuing) Did the Long Lake Lumber Company make any arrangements with the Bonner County National Bank relative to that chattel mortgage? A. No, sir.

Q. No,—did I understand that,—

A. I never saw it, even.

Q. Did I understand that the Bonner County National Bank had no discussion with any of the officers of the Long Lake Lumber Company relative to that chattel mortgage?

A. They had no discussion with me.

Q. And the Bonner County National Bank had not required the Long Lake Lumber Company to execute to it any type of instrument? A. No.

Q. Nor a letter? A. No.

Q. There is not in existence any financial obligation running [795] from the Long Lake Lumber Company to the Bonner County National Bank pertaining to that particular mortgage?

A. So far as I know, no.

Q. Would any other officer know?



(Testimony of James M. Brown, Sr.)

A. I doubt it; I don't see how they would.

Mr. Walker: That is all.

The Witness: I would like to ask about this value of these logs. We are going to go into some figures that no one in this court room will understand, including myself, when we get through with it.

Trial Examiner Hektoen: What I would like to have is just simply a vague idea of what your gross sales were in the year 1939.

The Witness: But there is so much difference in the gross value of the logs,—between the gross value of the logs and,—

Mr. Walker: (Interposing) I think the matter of sales has been adequately set out in the record.

Trial Examiner Hektoen: Oh, yes.

The Witness: Let me explain here; here would be the logs that cost us \$8 in Spokane in one job, and then there would be logs that cost us \$28 delivered at another job. It just doesn't make sense.

Mr. Walker: Should we go off the record?

Trial Examiner Hektoen: Off the record. [796]

(There was a discussion off the record.)

Trial Examiner Hektoen: Is that all, Mr. Walker?

Mr. Walker: Yes.

Mr. Potts: No cross examination.

(Witness excused.)

Mr. Walker: I offer in evidence what has been marked for identification as Board's exhibit No. 4.

Mr. Potts: No objection.

Trial Examiner Hektoen: If there is no objection, it will be admitted.

(Thereupon the document heretofore marked Board's exhibit 4 for identification was received in evidence.)

BOARD'S EXHIBIT No. 4

Sandpoint, Idaho

June 27, 1939

Mr. E. J. Eagen  
844 Dexter Horton Bldg.  
Seattle, Washington

Re: Charge No. XIX-C-538

Dear Mr. Eagen:

We have had several conferences concerning the above mentioned charge with your Mr. A. C. Roll, Mr. F. D. Robinson and men who are in his employ and everything seems to be harmonious. Mr. Roll requested that I write a letter to you stating one or two facts. This I am glad to do. Mr. Roll's report to you will show that our camp shut down on the 5th of June, due to the fact that owing to excessive and continuous rains we were no longer able to operate in the mountains with our trucks. The rains have apparently let up and we hope to be able to resume operations in our camp on the 5th of July. It is my intention to resume work on July 5th if possible.

It is my intention to employ the men making up my old crew except in those cases where no employment is available in a few particular lines of work. For example: Prior to closing on June 5th,

we were through making cedar. However, so far as cedar makers are concerned whenever we have an opportunity to place the cedar makers in other jobs, we will do so.

At the present time, we do not know how many of the men have affiliated with the Union and therefore we have not recognized any particular group as an exclusive bargaining agency for our employees. However, after work is resumed, it is our intention to recognize that Union which shows conclusively that it has within its membership a majority of our employees.

Yours very truly,  
F. D. ROBINSON.

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Mr. Walker: I believe Mr. Brown has some figures for us.

Trial Examiner Hektoen: All right.

JAMES M. BROWN, SR.,

previously sworn, was recalled by and on behalf of the Board, and further testified as follows:

Direct Examination

Q. (Mr. Walker) Mr. Brown, have you some figures for us?

A. I have taken five minutes, and I have done some figuring; this is exactly what I would do if I had gone to my office. The total value of logs is around \$600,000. [797]

Trial Examiner Hektoen: That is, during 1939?

(Testimony of James M. Brown, Sr.)

The Witness: Yes, during 1939.

Mr. Walker: That is all.

(Witness excused.) [798]

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JAMES M. BROWN, SR.,

previously sworn, was called as a witness by and on behalf of the respondent Long Lake Lumber Company, and testified as follows:

Direct Examination

Q. (Mr. Potts) Your name is James M. Brown?

A. Yes.

Q. You have been previously sworn?

A. Yes.

Q. You represent the respondent Lumber Company? A. Yes.

Q. You have been called as a witness previously on behalf of the Board? A. Yes.

Q. You are the president of the Long Lake Lumber Company? A. Yes.

Q. How long have you held such an office with the Long Lake [800] Lumber Company?

A. Since its organization; 21 years.

Q. Is the Long Lake Lumber Company a corporation? A. Yes.

Q. In what state is it incorporated?

A. State of Washington.

Q. And did you cause it to be organized?

A. Yes.

(Testimony of James M. Brown, Sr.)

Q. Is the Long Lake Lumber Company qualified to do business in the State of Idaho as a foreign corporation?      A. Yes.

Q. What is the business of the Long Lake Lumber Company?      A. Producing lumber.

Q. That is to say, the manufacture and distribution of lumber?      A. Yes, sir.

Q. Where does it manufacture its lumber products?

A. It has two mills in Spokane, one on the SI Railroad and one on the Great Northern Railroad.

Q. Is one of those mills the sawmill that has been heretofore referred to as the Hedlund Plant?

A. Yes.

Q. To supply those sawmills with logs for the manufacture of lumber, where does the Long Lake Lumber Company obtain its saw logs? [801]

A. On all five railroads out of Spokane.

Q. Are some of the sources of supply of logs in the State of Idaho?      A. Yes.

Q. And principally in what counties in Idaho?

A. In Bonner and Boundary Counties.

Q. Is Caribou Basin, that has been referred to here, one of the sources of supply of saw logs for the Long Lake Lumber Company?

A. Yes, sir.

Q. And what other timber holdings does the Long Lake Lumber Company have, either timber owned in fee or owned as standing timber, or purchased under small stumpage contracts in the vi-

(Testimony of James M. Brown, Sr.)

cinity and general locality of the Caribou Basin timber?

A. Well, we have timber that we own in fee, and also other contract timber. Do you want the amounts?

Q. Can you refer to them generally as to certain holdings?

A. The Humbird-Caribou Basin timber; the Menasha Woodenware timber in the Pack River Basin, and the Humbird in the Pack River Basin.

(Thereupon a map was marked as Respondents' exhibit 1 for identification.)

Q. (Mr. Potts) Mr. Brown, you are familiar with this map which I hand you, which has been marked as respondents' exhibit 1 for identification, are you not? [802]

A. Yes.

Q. By whom was that map prepared?

A. Mr. Breen.

Q. And who is Mr. Breen?

A. He is our woods superintendent.

Q. Are you personally familiar with the locations and legal subdivisions and general character of the timber holdings which are shown on this map?

A. Yes, I am.

Q. Have you examined the map carefully, yourself, prior to this time?

A. Yes.

Q. Is it a true and correct representation of the locality?

A. Yes.

Q. And of the location of the various timber holdings to which you have just testified?

(Testimony of James M. Brown, Sr.)

A. Yes. I left out one timber holding. I should have mentioned the Winton-Long Lake timber holding, which is owned in fee.

Q. The Winton-Long Lake timber holdings owned in fee, are owned how as between the Long Lake Lumber Company and the Winton Lumber Company?

A. One-half is owned by the Long Lake Lumber Company, and one-half by the Winton Lumber Company; we own the land and all.

Mr. Potts: We offer this map in evidence, which has been marked as Respondents' exhibit 1 for identification, for the [803] purpose of illustrating the testimony of this witness and other witnesses to follow.

Mr. Walker: May I ask a single question?

Mr. Potts: Surely.

Mr. Walker: Mr. Brown, on respondent's exhibit No. 1, does it distinguish between what is generally referred to as the Humbird-Caribou and what is the Menasha Woodenware?

The Witness: I don't know about the Menasha Woodenware, but the Humbird-Caribou.

Mr. Walker: That is what I want to know. Each separate holding is colored differently?

The Witness: I know the Humbird-Caribou is here; I think there (indicating).

Q. (Mr. Potts) Look at it now (hands map to witness).

A. Yes, they are all in different colors; each holding is in a different color.



(Testimony of James M. Brown, Sr.)

Trial Examiner Hektoen: Does it have any legend on the map there to identify the various holdings?

The Witness: Yes.

Mr. Walker: I have no objection.

Trial Examiner Hektoen: It will be admitted in evidence, there being no objection.

(Thereupon the document heretofore marked Respondents' exhibit No. 1 for identification was received in evidence.) [804]

Mr. Potts: I think, for further explanation of the map, I wish to keep it before the witness for the moment.

Trial Examiner Hektoen: Surely.

Q. (Mr. Potts) This map bears three legends. To what do they refer, Mr. Brown?

A. To what do they refer?

Q. Generally speaking, to what do they refer?

A. To the different units.

Q. To the different units, or holdings?

A. Yes.

Q. Of timber? A. Of timber.

Q. Take the first, the Humbird-Caribou,—strike that. Take the Humbird-Caribou — Caribou-Hell Roaring Unit. What is that legend? How is it shown on the map? How is it described?

A. That is the Caribou Basin-Hell Roaring Unit (indicating).

Q. What is the nature of the legend?

A. It is green.

Q. Green stripes?

(Testimony of James M. Brown, Sr.)

A. Green stripes, yes.

Q. And the legend which refers to and is noted on the map as Winton-Long Lake Lumber Company holding, what type of legend is that?

A. That is orange, isn't it?

Q. Well, I would call it red.

A. Well, red or orange. [805]

Q. It appears to be a very light red, does it not?      A. Yes.

Q. And the legend referring to the Humbird-Long Lake Lumber Company holding is what type of legend?      A. In blue.

Q. Blue stripes?      A. Blue stripes.

Q. And the Long Lake Lumber Company holding is in what type of legend?

A. It is yellow.

Q. Now, so far as the holdings which I have referred to are concerned,—are those the only timber holdings of the Long Lake Lumber Company, or in which the Long Lake Lumber Company is a part owner, or has any interest in, as shown on this map?

A. I think that is all that is shown on this map, yes.

Q. Now, referring to the Humbird-Long Lake holdings, the Caribou-Hell Roaring Unit, you might state whether or not those are the holdings, and whether or not that is the timber in which unit the timber is being logged by the Robinson Logging operation?      A. Yes, it is.

Q. Next, the Winton-Long Lake Lumber Com-

(Testimony of James M. Brown, Sr.)

pany holding, which you have described, as timber owned in fee by the two companies, you might state whether or not that is timber which is in the process of having portions of it logged at the present time? [806]           A. Yes.

Q. What is the case as to whether or not arrangements have been made for the logging of a portion of that timber during the present year?

A. Yes.

Q. Has the logging operation commenced as yet, or not?           A. Oh, no; it couldn't.

Q. Who is to log that timber this year for the two companies?           A. Oliver Brothers.

Q. And then passing on to the Humbird-Long Lake holdings, marked in blue, what is the nature of those holdings?

A. Those holdings were bought on a stumpage basis from the Humbird Lumber Company.

Q. Are those holdings connected in any way with the Caribou Basin Logging operation?

A. No.

Q. Are the Winton-Long Lake Lumber Company holdings connected in any way with the Caribou Basin Logging Operations?           A. No.

Q. And the last, the Long Lake Lumber Company holdings, what are they?

A. Just standing timber.

Q. That is owned by the Long Lake Lumber Company?           A. Yes.

Q. Is any of that being logged at the present time? [807]           A. No.

(Testimony of James M. Brown, Sr.)

Q. Or has it been the last two years?

A. Yes.

Q. Where is that located with reference to any natural stream?      A. It is on Pack River.

Q. Now, is there shown on this map the Dam which has been heretofore mentioned as the Colburn Creek Dam?      A. Yes.

Trial Examiner Hektoen: Will you point out where the dam is?

The Witness: This is the main highway, 12 miles from Sand Point towards Bonners Ferry here (indicating).

Q. (Mr. Potts) Mr. Brown, several years ago, did the Long Lake Lumber Company make an arrangement with the Humbird Lumber Company for the purchase of the stumpage or standing timber in the Caribou Basin?      A. Yes.

Q. About what time was that?

A. I think it was in 1935.

Q. And as a result of the negotiations between the Humbird Lumber Company and the Long Lake Lumber Company, was a purchase contract consummated and entered into?      A. Yes.

Q. What was and is the Humbird Lumber Company? [808]

A. It is a company which has headquarters here at Sand Point, Idaho.

Q. And did it own a large quantity of standing timber in the vicinity of Sand Point in northern Idaho?

(Testimony of James M. Brown, Sr.)

A. Yes, many times as much as there is in Caribou.

Q. And did the Humbird Lumber Company cease active lumber operations many years ago?

A. Yes, and liquidated.

Q. With the result that it sold and disposed of some of its stumpage?      A. Yes.

Trial Examiner Hektoen: What is the technical definition of "stumpage", for the record.

Mr. Potts: I can answer that, perhaps, or Mr. Brown can answer it.

Trial Examiner Hektoen: Any way that will be simpler.

Mr. Potts: Stumpage is standing timber usually sold on a stumpage basis, or at so many dollars per thousand feet log scale; it is standing timber to be cut into logs, aside from cedar poles, which are not sold that way. Cedar poles are sold at so much per pole.

(Thereupon a document was marked as Respondents' exhibit No. 2 for identification.)

Q. (Mr. Potts) I hand you an instrument which has been marked as Respondents' exhibit No. 2, and I will ask you what it [809] is?

A. Well, I just looked this over for the first time in a long time. I know that is the agreement that we made with Humbird for the purchase of the Caribou-Hell Roaring Unit.

Q. Do you recognize your signature on that contract?      A. Yes.

Q. And the signature of T. J. Humbird?

(Testimony of James M. Brown, Sr.)

A. Yes.

Q. President of the Humbird Lumber Company? A. Yes.

Q. And do you recognize the signature of J. M. Brown of the Long Lake Lumber Company?

A. Yes.

Q. That is your signature?

A. That is my signature.

Mr. Potts: We offer in evidence respondents' exhibit No. 2, and since it is an original instrument of some importance and value, I ask permission to substitute a compared copy, and then withdraw the original.

Trial Examiner Hektoen: What is the date of the contract?

Mr. Hunt: June 28, 1935.

Mr. Walker: May I inquire?

Mr. Potts: Certainly.

Mr. Walker: Mr. Brown, is this agreement, marked Respondents' exhibit No. 2, still in existence? [810]

The Witness: Yes.

Mr. Walker: I have no objection.

Trial Examiner Hektoen: It may be admitted, and a copy may be substituted for the original.

(Thereupon the document heretofore marked Respondents' exhibit No. 2 for identification was received in evidence.)

#### RESPONDENTS' EXHIBIT No. 2

This Agreement, Made and entered into this 28th day of June, 1935, between Humbird Lumber Com-



(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

pany, a corporation, party of the first part, and Long Lake Lumber Company, a corporation, party of the second part;

Witnesseth; That in consideration of the payments herein agreed to be made by party of the second part, and the terms and conditions to be performed by party of the second part, party of the first part agrees to sell to party of the second part all of the merchantable timber, consisting of white pine, yellow pine, spruce, cedar, tamarack, hemlock, red fir, and white fir, standing, lying and being upon the following described land in Bonner County, Idaho, to-wit:

Block Number 1:

Section 1;

North Half ( $N\frac{1}{2}$ ) of Section 12;

North Half of the South Half ( $N\frac{1}{2}S\frac{1}{2}$ ) of Section 12;

All in Township 59 North Range 3 West B.M.

South Half of the Southeast Quarter ( $S\frac{1}{2}SE\frac{1}{4}$ ) of Sec. 5;

North Half of Section 7;

North Half of the North Half ( $N\frac{1}{2}N\frac{1}{2}$ ) of Section 9;

All in Township 59 North Range 2 West B.M.

Block Number 2:

Sections 13, 24 and 25, in Township 59 North Range 3 West B.M.

South Half ( $S\frac{1}{2}$ ) of Section 7;

South Half ( $S\frac{1}{2}$ ) of Section 8;



(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

South Half of the North Half ( $S1\frac{1}{2}N1\frac{1}{2}$ ) of Section 8;

All of Section 9, except North Half of the North Half ( $N1\frac{1}{2}N1\frac{1}{2}$ );

All of Section 18;

All of Section 17;

All of Section 19;

All of Section 20;

West half of the southwest quarter ( $W1\frac{1}{2}SW\frac{1}{4}$ ) of Section 21;

North Half of the North Half ( $N1\frac{1}{2}N1\frac{1}{2}$ ) of Section 29;

All in Township 59 North Range 2 West B.M.

It Is Understood and Agreed, that party of the second part shall have the right to enter upon the above described land and cut and remove the above described timber at any time after the execution of this Agreement and continue the cutting and removal of such timber so long as it shall not be in default in the performance of any of the terms and conditions of this contract to be performed by it, or in making any payment at the time and in the manner herein specified. It Is Understood and Agreed that all timber suitable for the manufacture of cedar poles of standard sizes and cedar piling shall be cut into poles or piling and other cedar timber suitable for saw logs shall be cut into saw logs.

The party of the first part grants to party of the second part the right to use all improvements of

(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

party of the first part now on said land, such as dams, flumes and buildings, and also the right to cut on said land any mixed timber to be used in improvements on said land in connection with the logging operations to be carried on without any charge being made therefor, and also grants to second party, without charge, a right-of-way over any other land of first party necessary to be used by second party in removing the timber covered by this contract.

The white pine timber shall be cut to a six inch (6") top. The saw logs shall be scaled in the woods or on cars as loaded on either the Spokane International Railway or Great Northern Railway, it being understood and agreed that party of the second part shall have the option to load said logs on either of said railways, but party of the first part shall have the option to determine whether said logs shall be scaled in the woods or as loaded on cars. The cedar poles and piling shall be inspected in the woods by a scaler employed by first party, and the wages and the board of such scaler shall be borne equally by the parties to this Agreement. The said scaler shall furnish each party to this Agreement with a weekly report showing all logs scaled and cedar poles and piling inspected during that week and also a report on the fifth of each month showing the total logs scaled of each species and the number and sizes of cedar poles and piling inspected during the preceding month. All logs scaled shall be numbered by

(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

marking the number on each log and the scale thereof entered in a scale book opposite the number of such log, the white pine record to be kept separate and logs numbered consecutively, the yellow pine record to be kept separate and a similar record kept thereof, but the other logs may be designated as mixed and scaled together and a similar record kept thereof. Such records shall at all times be subject to inspection by each of the parties.

In case second party shall be dissatisfied with the scale of logs as reported by such scaler and shall so report to first party, then in case the parties do not reach an agreement, second party shall have the right to employ a check scaler regularly employed by the U. S. Forestry Department to check the scale made by the Scaler employed. Such check scaler shall make his scale in accordance with the method and plan usually adopted by the Forestry Service in making a check scale of its own timber. He shall deliver to each of the parties a copy and report of his check scale and in case the report of such check scaler shall show a variation in excess of three per cent (3%) of the scale made by the scaler employed, party of the first part shall, upon request of second party, employ another scaler to replace the scaler employed, and shall also pay the costs of such check scale, otherwise the cost of such scale to be borne by second party.

All logs shall be scaled with a Scribner Decimal C. Rule and shall be scaled and the timber cut in

(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)  
accordance with the rules and regulations of the U. S. Forestry Service in force on contracts governing the sale of U. S. Forestry timber at the present time, provided, however, that party of the second part shall not be required to remove or pay for any white pine log that will not scale at least thirty-three and one-third per cent (33-1/3%) or any cedar log that will not scale at least fifty per cent (50%) of its gross scale after deduction for visible indication of defect.

It Is Understood and Agreed, that the party of the second part will cut, manufacture and purchase from first party all of the merchantable saw timber, except hemlock, the cutting of which shall be optional with second party, all timber suitable for cedar poles and piling covered by this contract, and in its logging operations cut and manufacture all of the merchantable saw timber and cedar timber suitable for poles and piling on each section as the work progresses, or the cedar operations on said section shall immediately follow the removal of the white pine on each section. It is understood and agreed that party of the second part will cut into saw logs and pay for all cedar timber suitable for saw logs, produced in manufacturing poles and piling.

Each of the parties to this Agreement agrees to pay one-half of the taxes on the land and timber covered by this contract for the year 1935, and the party of the second part agrees to pay the taxes on

(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

the land and timber covered by this contract for the year 1936 and subsequent years until this contract is completed, provided, however, party of the second part may be relieved of the obligation to pay taxes on the land in any section after all timber covered by this contract has been cut and removed and paid for, by notifying party of the first part in writing that he has completed the cutting of the timber on said section and releasing said land from this contract and furnishing party of the first part satisfactory evidence from the State or Government Officials, Code Authority or other authority in charge of brush disposal on said land, that all brush and debris has been disposed of on said area to be released, such notice and release and evidence of brush disposal so given by party of the second part shall release party of the second part from the obligation to pay taxes on the land in such section accruing subsequent to January 1st, following the giving of such notice. The terms taxes as used in this contract shall cover all taxes and assessments of every nature and kind, including fire tax or assessments.

It Is Further Understood and Agreed, that party of the second part shall dispose of all brush and debris accumulated in connection with the logging operations carried on on said land and that all of the work covered by this contract shall be performed by party of the second part in strict conformity with all of the provisions of the Forest Conserva-



(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)  
tion Code and Rules of Forest Practice, as set forth in Conservation Bulletin Number 7 issued by the Western Pine Division of the Lumber Code Authority issued in May, 1934, to become effective June 1st, 1934, and any amendments that may be made thereto, provided, however, that in case said forest Conservation Code and Rules of Forest Practice shall become inoperative by reason of repeal thereof, or for any other reason, then it is understood and agreed that the disposal of brush and debris and the cutting of this timber shall be performed in accordance with the rules and regulations of the United States Forestry Service, or such other Federal, State or Code authority which may be in charge.

In case any of the timber covered by this contract shall be damaged by fire or by wind prior to the time that the same has been cut, then party of the second part agrees to immediately commence operations and cut and manufacture the timber on said burned area or on the area upon which any timber may be damaged by wind in accordance with the terms of this contract, in order to salvage such timber and reduce the loss on account of such fire damage or damage by wind so far as practicable.

It Is Understood and Agreed, that this contract shall not be effective until party of the second part executes and delivers to party of the first part a good and sufficient undertaking in the sum of Fifty Thousand Dollars (\$50,000.00), executed by some surety company to be approved by party of the

(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

first part, conditioned for the faithful performance of this contract by party of the second part, or, in lieu of such bond, furnish other deposit or security satisfactory to first party. Second *part* shall have the option to furnish, in lieu of the foregoing, a bond of such a surety company in the amount of Twenty-five Thousand Dollars (\$25,000.00), and, in addition thereto, pay to the first party, in addition to the prices provided in the *1st* of prices hereinafter set forth, additional sums of Fifty cents (50c) per thousand (1,000) on all white pine as cut until such additional payments shall aggregate the sum of Twenty-five Thousand Dollars (\$25,000.00), which additional payments are hereinafter referred to as "lieu bond". Said Lieu bond shall be retained by the first party as a bond under the same terms as the other bond furnished, in lieu of the reduction in the Fifty Thousand Dollar (\$50,000.00) bond as above referred to. Said lieu bond shall apply upon the last stumpage cut under this contract—in other words, the second party shall be entitled to credit in the amount of said lieu bond upon the last stumpage out under this contract. In case such security shall be reduced by the application of any portion thereof in liquidation of any breach of this contract, party of the second part agrees to furnish additional security satisfactory to first party equal to the amount so applied in liquidation so that said security shall at all times be equal to Fifty Thousand Dollars (\$50,000), or the Twenty-five Thousand Dollar (\$25,000) bond, plus



(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

additional payments of Fifty cents (50c) per thousand (1,000) on white pine cut under this contract as shall be due and payable to date as lieu bond, if that option shall have been exercised by the second party.

It Is Understood and Agreed, that this contract shall continue in force for a term not exceeding eight (8) years, but it is understood and agreed that party of the second part shall cut at least 10,000,000 feet of white pine in each year commencing Jan. 1st, 1936 T.J.H., J.M.B., that this contract continues in force, and complete the removal of all timber covered by this contract within eight (8) years from Jan. 1st 1936. T.J.H., J.M.B. The party of the second part promises and agrees to pay to party of the first part the following prices for the timber covered by this contract:

White Pine saw logs in Block Number 1, per thousand feet .....	\$6.00	..
White Pine saw logs in Block Number 2, per thousand feet.....	7.000	
Yellow Pine saw logs, in all Blocks, per thou- sand feet .....	2.50	
Mixed timber, including spruce, tamarack, hemlock, red fir, white fir and cedar logs, in all Blocks, per thousand feet.....	.50	
Cedar poles and Piling, in all Blocks:		
7", 8" and 10"—25'		
6", 7", 8" and 10"—30' and longer sizes per lineal foot .....	.01½	

It Is Understood and Agreed, that said cedar poles shall be inspected by said scaler according to the specifications of the Western Red Cedar As-

(Testimony of James M. Brown, Sr.)

Respondent's Exhibit No. 2—(Continued)

sociation, and the cedar piling shall be inspected according to the specifications of the Great Northern Railway Company.

The payments herein provided for shall be made on the 10th day of each month for all logs and cedar poles and piling scaled or inspected and reported during the preceding month.

It Is Understood and Agreed, that time is of the essence of this contract, and in case of default by party of the second part in making any payment or in the performance of any of the terms and conditions of this contract at the time and in the manner herein specified, party of the first part may, at its option, terminate this contract by giving second party fifteen (15) days' written notice of its intention to terminate this contract.

In Witness Whereof, the parties hereto have executed this Agreement the day and year first above written,

HUMBIRD LUMBER COM-  
PANY

By T. J. HUMBIRD

As Its President

LONG LAKE LUMBER  
COMPANY

By J. M. BROWN

As Its President

In the Presence of:

OLE PEARSON

J. A. HUMBIRD

(Testimony of James M. Brown, Sr.)

Q. (Mr. Potts) Is this contract with the Humbird Lumber Company, which has just been referred to, the contract under which the timber was purchased which has been logged by Mr. F. D. Robinson, one of the respondents in this matter?

A. Yes.

Q. And has it been in full force and effect since its date, namely, June 28, 1935? A. Yes.

Q. Is it in effect at the present time?

A. Yes.

Q. As President of the Long Lake Lumber Company, is there any particular part of the operation to which, during the past few years, you have devoted your special attention, Mr. Brown?

A. Yes.

Q. What part of the operation is that?

A. To the production of logs.

Q. Is the production of logs for the mills under your particular supervision? [811] A. It is.

Q. And in the exercise of that supervision, have you done anything personally in connection with the acquisition of timber holdings?

A. We never acquire any timber, or any amount of timber, without I first go over it personally and see some of the corners.

Q. And do you conduct negotiations for all purchases?

A. Yes. When I say "all", I mean of any amount.

Q. Of any consequence? A. Yes.

Q. In this instance, did you personally, on be-

(Testimony of James M. Brown, Sr.)

half of the Long Lake Lumber Company, conduct the negotiations for the Caribou Basin timber owned by the Humbird Lumber Company? A. Yes.

Q. And after the negotiations were completed, and the contract had been entered into, what then did you do, or did the Long Lake Lumber Company do, in connection with the opening up of that timber as a logging operation?

A. Well, the first thing that I did was to go over the proposition of a main road into the timber.

Q. Let me ask you, in that connection: what is the first thing that has to be done in opening up a body of virgin timber for a logging operation? What is the first step that you have to take? [812]

A. The first step that we take in opening up a body of timber is to get a road in there.

Q. What is the importance of a road?

A. Because everything depends on it; everything that comes in and goes out has to go over the main road.

Q. Sometimes it has branches? A. Yes.

Q. In any event, you have to have roads to get the logs out? A. Yes.

Q. And did you give any attention to the location of the main roads which would be necessary to open up this body of timber? Did you give it your personal attention?

A. Yes, indeed I did.

Q. Were the ultimate arrangements in connection with that part of the project made by you?

(Testimony of James M. Brown, Sr.)

Were you up there many times in connection with that part of the project?

A. Both before the work was started, and after; the first time I went in on the road,—I was ill at that time,—but we wanted to get started, and they took me in on horseback.

Q. Who else was interested in laying it out, locating it and determining where the main roads would be?

A. Mr. Breen. I had him with me many times; he worked alone at times.

Q. Would it be proper to say that anyone was in charge of [813] laying out the roads?

A. It would, after it was decided where they were to go, but I made the final decision as to where the roads should go.

Q. And in deciding that, did you consult others?

A. Yes.

Q. And have assistance from others?

A. Yes.

Q. Now, did the Long Lake Lumber Company cause to be built the main logging roads to open up this timber?      A. Yes.

Q. And did it repay the cost and expense of this building?      A. Yes.

Q. Why did the Long Lake Lumber Company do that?

A. For two reasons: one was, it was an expensive operation, and one was that it was necessary to have one main road into this Basin, and one main set of camps.

(Testimony of James M. Brown, Sr.)

Q. What about the length of this proposed operation? A. Over a period of years?

Q. As to it being an extensive operation? Could you estimate, not too closely, but in round numbers, the expense of the building of the main roads into the operation?

A. I don't know, exactly.

Q. Well, will it go into the thousands?

A. Yes, many thousands of dollars. [814]

Q. In building the main road, what was done? First, what was done about clearing the right-of-way; did that have to be done? A. Yes.

Q. Did the Long Lake Lumber Company arrange to have that done? A. Yes, sir.

Q. At its expense? A. Yes.

Q. Was that road built with machinery, bulldozers, and such? A. Yes.

Q. Did the Long Lake Lumber Company arrange for the construction work? A. Yes.

Q. And when was that work started? Do you recall, approximately?

A. Well, it was shortly after the contract was signed; I don't remember what time it was.

Q. In the year 1935? A. Yes.

Q. Over what period did it continue before completion?

A. From that fall, I believe, into the next spring.

Q. In the meantime, were other improvements made of a permanent character?



(Testimony of James M. Brown, Sr.)

A. Yes, and a permanent set of camps was established. [815]

Q. And who caused them to be built?

A. We did.

Q. Who paid for them? A. We did.

Q. Now, at the time that this preliminary work started in this logging operation, did you have any contact with Mr. F. D. Robinson? A. Yes.

Q. Do you know what he was doing at that time?

A. He had a contract for logging on what was termed in this case, or what has been termed in this case, as Section 11, but it covered 11 and a part of other sections.

Q. It is the logging operation which has been referred to as the Section 11 Logging Job?

A. Yes.

Q. And as "Section 11"? A. Yes.

Q. Was Mr. Robinson working on his contract, and on that logging operation on Section 11 in 1935 and 1936? A. Yes.

Q. And was that operation just started, or was it near completion on Section 11?

A. Well, it was nearing completion.

Q. Did you have any arrangement with Mr. Robinson during the years 1935 and 1936 with respect to the construction of the main [816] logging roads and permanent logging camps in the Caribou Basin? A. Yes, we did.

Q. What was your arrangement with him, Mr. Brown?



(Testimony of James M. Brown, Sr.)

A. Well, our arrangement was that he was to build the road and the camps, and we would give him what assistance we could.

Q. And as to the payment for that?

A. And we would pay him for that.

Q. And was that done?

A. That was done.

Q. Who had the right to determine where the roads should be located?      A. We did.

Q. Was there any understanding as to that with Mr. Robinson?      A. Yes.

Q. Who was to have that say?

A. That we were to have the right to say where it was located, and to have it acceptable to the Humbird Lumber Company.

Q. Why acceptable to the Humbird Lumber Company?

A. Because they were turning over to us a large amount of timber with a small amount of payment down, and naturally they were anxious to have us build the road in the proper place.

Q. And did you select the campsite for the permanent camp buildings, or assist in locating it?

A. Yes. I selected what I thought would be the natural site for the campsite for the entire Basin. This was done prior to [817] the time the road was started, and it developed that is where the camp was put.

Q. In the meantime, while the road construction was in progress in 1935 or 1936, and before the construction of the permanent camps, did you arrange

(Testimony of James M. Brown, Sr.)

for the construction of some temporary camp buildings that have been referred to here as the Morrow Camp?

A. In arranging for them,—I was trying to think of it yesterday; they were small camps, and didn't amount to very much.

Q. Were they supposed to be only temporary camps?

A. Yes, they were supposed to be merely temporary camps.

Q. You mentioned the amount of the timber involved in the Humbird Tract. Was the amount that you mentioned,—was the amount of the White Pine merchantable timber estimated at or about the time, or at or before the time the contract was entered into with the Humbird Lumber Company?

A. It was estimated, yes.

Q. And what was it estimated to be?

A. 80 million feet.

Q. 80 million feet of merchantable timber,—80 million feet?      A. Thereabouts.

Q. Well, all estimates are "thereabouts"?

A. Yes. [S18]

Q. It was estimated to be 80 million feet of merchantable Idaho White Pine timber?

A. That is right.

Q. And that involved how much money in the purchase price, Mr. Brown?

A. Of the White timber alone?

Q. Yes.

(Testimony of James M. Brown, Sr.)

A. I would have to do some figuring for that. I could tell you about it after figuring.

Q. About one half million dollars, wasn't it?

A. Just about, for the white pine alone.

Q. But since it was to be paid for on a stumpage basis, it might in the end vary a number of thousands of dollars, according to the actual logs cut, scaled and delivered?

A. That is right.

(Thereupon a map was marked Respondents' exhibit No. 3 for identification.)

Q. (Mr. Potts) I hand you a map which has been marked as respondents' exhibit 3 for identification, and I will ask you to state what that represents, generally speaking?

A. That is what we call a progress map of the operation, showing the amount cut each year, and the number of miles of road built.

Q. In the first place, what does it show, as a whole?

A. It shows the Caribou Basin. [819]

Q. It shows the legal subdivisions, sections, and so forth?

A. Of the Caribou-Hell Roaring Unit.

Q. And does this map contain all of the legal subdivisions of timber which are described in the contract between the Humbird Lumber Company and the Long Lake Lumber Company, which has been introduced in evidence here as respondents' exhibit No. 2?

A. Yes.

(Testimony of James M. Brown, Sr.)

Q. And how are those legal subdivisions designated on this map?      A. By 40's.

Q. In what way?

A. By a red check-mark.

Q. By a red check-mark?

A. That is right.

Q. And each 40 checked with a red check-mark is included in the lands covered by this contract in the Caribou Basin Logging Tract?

A. Yes.

Mr. Walker: By 40's, or quarter sections.

Q. (Mr. Potts) By 40's?

A. No,—yes, by 40's.

Q. Now, there are portions of the map which are colored in bright colors?

A. That is right. [820]

Q. And what do those colors represent?

A. That represents the area cut in the different years.

Q. This legend in the corner of the map shows what each color represents?      A. Yes.

Q. For instance, the color grey is shown to represent the area cut in 1936?

A. That is right.

Q. And that amount or portion of the area marked with the color grey on the map was the area of this timber which was cut in the year 1936?

A. That is right.

Q. And the other colors the same?

A. Yes.

(Testimony of James M. Brown, Sr.)

Q. That is, each color designated in the legend shows the area that was cut in each of the subsequent years? A. Yes.

Q. Was any,—had any timber been cut prior to 1936?

A. None, only for the purpose of roadbuilding. A copy of that is made out each year, and one copy is given to the Humbird Lumber Company, and one for us.

Q. Who made this map? A. Mr. Breen.

Q. Are you familiar with everything that the map represents, personally? [821]

A. Yes, I am.

Q. And is it a fair and accurate representation of all that it purports to show with reference to the Caribou Basin? A. It is correct.

Mr. Potts: We offer in evidence Respondents' exhibit No. 3.

Mr. Walker: No objection.

Trial Examiner Hektoen: It will be admitted, without objection.

(Thereupon the document heretofore marked Respondents' exhibit No. 3 for identification, was received in evidence.)

Q. (Mr. Potts) For the moment, I am confining our attention to the map which has just been received in evidence as respondents' exhibit No. 3.

Now, I want you to point out on that the location of the main road up to the Caribou Canyon to which you have recently testified.

(Testimony of James M. Brown, Sr.)

A. Pack River is in Section 15, down here (indicating).

Q. It is in Section 15?

A. And the elevation is somewhere about 2,250 or 2,300 feet. I was going to check that this morning, but didn't. The main road leads from Section 15 into Section 16, which is a State Section, and it comes up near the west line of 16 and wyes.

[822]

Trial Examiner Hektoen: Are you moving west?

The Witness: Moving west, yes. Then it crosses the line on Section 17 on the south side of Caribou Creek.

Q. (Mr. Potts, continuing) Which line of 17?

A. The east line of Section 17, south of Caribou Creek; and on account of the contour of the ground, runs into Section 20 and then back through just the corner of Section 19 and up into the southwest of the SE  $\frac{1}{4}$  of Section 18, where the permanent camps are built. These are at an elevation of about, or around, 3400 feet.

Q. Which direction does Caribou Creek run down there?

A. Caribou Creek runs almost directly east and west.

Q. That runs in an easterly direction?

A. Yes, easterly direction.

Q. And we have been going up the creek, as you have described this road? A. Yes.

(Testimony of James M. Brown, Sr.)

Q. Does or does not the road follow the creek, more or less?

A. Yes, but it is away from it in some places because it is so steep; there is a canyon there.

Q. Let's see. You have taken us past the camps and along in that section (indicating).

A. (Interposing) Section 18. There are permanent camps here (indicating).

Q. Is that where the main road ends? [823]

A. No. The main road, that is, the main road into the camps.

Q. Has it been continued?

A. Yes. As the legend shows, that road is about 3 miles long, or  $3\frac{1}{2}$  miles, and the legend shows that there is already built in there over 37 miles of road.

Q. Let us get that clear now. We are discussing the main roads?

A. This is the main road; this road is wide enough so that trucks, on a great part of this road, can pass; two trucks may pass.

Q. When you mentioned 37 miles of road,—

A. (Interposing) That is the logging road.

Q. That is the logging road out of and beyond the main road?

A. Yes, beyond the main road.

Q. Does the main road end at the camp?

A. What we call the main road ends at the camp; the rest is logging road.

Q. The other roads which you referred to are called secondary or side roads?



(Testimony of James M. Brown, Sr.)

A. Logging roads, narrow roads, — logging roads.

Q. Does that include all the roads that the Long Lake Lumber Company built?

A. That includes all the roads into this camp, and this Y into the timber, that is what we call our main road here in there (indicating). [824]

Q. Is that the road that was constructed and paid for at the instance of the Long Lake Lumber Company?      A. Yes.

Trial Examiner Hektoen: Your main road extends from the wye to the main camp, is that the point?

The Witness: No, our main road extends from the Pack River to the main camp.

Q. (Mr. Potts) Your main road runs from here (indicating) back in Section 15 and the Y in Section 15 up into the camp?

A. That is right.

Trial Examiner Hektoen: And then from here on into the timber (indicating)?

The Witness: That is right.

Q. (Mr. Potts) Now, is this campsite where the main camp is located, marked on this map so that it can be readily ascertained?

A. Yes.

Q. Or could you improve on it?

A. It is marked plainly. Where it says "barn" and "camp"; there is a group of buildings there,—there are several buildings,—and they are all in one little flat.

(Testimony of James M. Brown, Sr.)

Q. Are you familiar with the several elevations in the different portions of the territory, or are you not?      A. Yes, I am.

Q. I am referring to the different portions of the territory or area embraced in the Caribou Basin Logging Project. [825]

A. Yes, I am.

Q. You mentioned the elevation where the road started?      A. I said, about.

Q. And the other elevation you mentioned was where the camp is located?      A. Yes.

Q. And what is that?

A. 3400 feet, I believe.

Q. That means above mean sea level?

A. Yes.

Q. And these other elevations you have mentioned are above mean sea level?

A. Yes. This lookout above the logging tract here is at 6200 feet, and I think the timber we have at the highest is at an elevation of 5,500 or 5,600 feet. You could check that.

Q. The topography of this country in which the logging operation is conducted,—speaking of the area on this map embraced by the Humbird contract, and covering all this logging operation,—what is it, generally speaking?

A. It is continually upgrade; there is a divide right there.

Q. Where is it?

A. On the end,—Section 13, 24 and 12. The

(Testimony of James M. Brown, Sr.)

Priest River Divide is in there, and our timber runs up as far as this line there (indicating).

Q. Do you know about the height of the Divide? [826]

A. This Lookout is at 6200 feet. I have been to the Lookout, but I have not been above it.

Q. What I am getting at is, from the place where you started your road in Section 15, what is the character of the ground as far as grades and elevations are concerned?

A. Going up to the timberline, it is extremely rough and an extremely expensive road to build.

Q. How are the grades on the roads?

A. I can't tell you exactly; but from a short distance east of the west line of Section 16 to a very short distance east of the west line of Section 17, there is a change in elevation of nearly 1000 feet.

Q. And it rises nearly 1000 feet in that distance?      A. Yes.

Q. All right. From the west line of Section 17, or the east line of Section 18, if you prefer, how is that?

A. It is not very bad in there; it is a gradual rise.

Q. Is this a level country?

A. No, it is all hillside.

Q. All hillside?      A. Yes.

Q. The roads, do they not, have to run up the grades to reach the timber?

A. Yes, and they are very steep.

(Testimony of James M. Brown, Sr.)

Q. And the logs have to be brought down steep grades? [827]

A. Very steep; they are so steep that some of the trucks can't make the grades.

Q. This Colburn Creek Dam is not shown on the map to which you have just referred, and from which you have been testifying?

A. No.

Q. And it is not in that area? A. No.

Q. About how far is it from the nearest point of the Caribou—how far is it from the Colburn Creek Dam?

A. We always talk from the edge of the timber, which is the west line of Section 17; it is about 10 miles, I guess.

Q. Ten miles from the edge of the timber on the east line of Section 17?

A. Yes. I have not measured it.

Q. That is by road? A. Yes, by road.

Q. Now, referring to the large map, respondents' exhibit No. 1, I believe you have already pointed it out? I think that you have pointed out the location on the map.

A. Yes. Of course, it is both a dam and a storage; it is a dam and a lake which had been created for the purpose of storing and holding the logs.

Q. Would you indicate the road that leads there? Would you indicate the course of the road leading from the Caribou Basin operation to the Colburn Creek Dam? [828]

(Testimony of James M. Brown, Sr.)

A. Do you want me to trace it with a pencil?

Q. Yes, with a pencil, trace it in order that it may be in the record.

Trial Examiner Hektoen: We will have it on the map, rather than by description, then?

Mr. Potts: I was going to do both; both show it on the map with a pencil, and have it in the record by description. After all, it doesn't mean much to have it on the record.

Trial Examiner Hektoen: It might be well if he traced it on the map.

Q. (Mr. Potts): Are you prepared to trace it on the map?

A. I don't think that is my business; I am not a draftsman. It leaves Section 17,—

Q. In what direction?

A. In an easterly direction through Section 17 into 15; and then there is a main highway,—from there down to the main highway, between here and Bonners Ferry, which is about five miles from the foot of the hill, out of Caribou.

Q. That is sufficient for my purpose. Is that the road, over which any logs which might be hauled to and unloaded at the Colburn Creek Dam would be hauled?

A. Yes. These five miles,—all these logs have to come over that road. They have to come out of Pack River, and—

Q. (Interposing): Have any logs heretofore been hauled out of the Caribou operation to the Colburn Creek Dam? [829]      A. Yes.

(Testimony of James M. Brown, Sr.)

Q. When?           A. Last fall.

Q. Now, going to the Winton-Long Lake holdings shown on this same map, what is the fact as to that? What is the fact as to whether or not any of the logs to be taken from that timber and to be logged during the present year,—are they to be logged and hauled and unloaded at the Colburn Creek Dam?

A. Yes, the parts to be hauled; they can't get out by any other road.

Q. All of it is Long Lake Lumber Company logs?           A. Yes.

Q. Which will be half of the logs cut from those holdings?           A. Yes.

Q. What is the fact as to whether there are logs to be produced from your other holdings shown on this map?

A. They all must come out on that same road.

Q. Is the Colburn Creek Dam and storage to be used for handling them?           A. Yes.

Q. Was the Colburn Creek Dam designed and constructed for the purpose of handling logs from the Caribou Basin alone?

A. No, it was not.

Q. What was it designed and constructed for, and what it is intended to be used for in your operations? [830]

A. It was designed and constructed for, and is intended to be used to take care of nearly all the timber that we cut around this district, and par-



(Testimony of James M. Brown, Sr.)

ticularly all the timber that comes from the Paek River Basin, or the Caribou Basin.

Q. You didn't have that storage until the latter part of last year, did you?      A. No.

Q. Not at all?

A. No. We worked on it, and tried to have it.

Q. But you didn't have it?      A. No.

Q. Prior to that, did you have any water storage for the delivery of any logs from the Caribou Basin?      A. No.

Q. And where have all the logs produced in the Caribou Basin operations since it started in 1936 been delivered and shipped to you?

A. On the Great Northern at Samuels, and on the S&I at Samuels; depending largely on which mill we want the timber——

Q. (Interposing): At any rate, they have been delivered at landings on railroads?      A. Yes.

Q. Loaded on cars and shipped to your mills from those landings?      A. Yes.

Q. At railroad sidings?      A. Yes. [831]

Q. And the difference in the places at which they were landed, and at which they were unloaded and loaded onto cars depended upon which of your Spokane Mills you wanted them shipped to?

A. Not altogether.

Q. Not altogether?

A. Not altogether, but largely.

Q. In other words, is one of your mills in Spokane on one railroad,——

A. (Interposing): Yes, and the other is on the



(Testimony of James M. Brown, Sr.)

other road; one is on one road, and one is on another.

Q. One is on one railroad, and the other is on another?  
A. That is right.

Q. You stated that when you opened up the Caribou Basin, you had an arrangement with Mr. F. D. Robinson in connection with the preliminary work and the permanent improvements, such as main logging roads and camps?  
A. Yes.

Q. Did you have any arrangement with him with respect to the future conduct of the logging of this timber; or do you catch what I mean? I don't want to get too involved?  
A. I think so.

Q. Did you have some understanding with Mr. Robinson that he was to have the logging of that timber?  
A. Yes. [832]

Q. And when was it contemplated that he should begin logging that timber, with reference to the logging contract which he was then completing?

A. I think it was about the first of 1936.

Q. Your negotiations and arrangements with Mr. Robinson with respect to the logging, as well as the construction of improvements were verbal, were they not, Mr. Brown?  
A. That is correct.

Q. That is, did you have any formal written contract at the inception of that?

A. No, we did not.

Q. And did you, from year to year, or from time to time thereafter, have an informal written contract with Mr. Robinson with respect to his logging operations?  
A. Yes, we did.

(Testimony of James M. Brown, Sr.)

Q. Were the logging operations in which Mr. F. D. Robinson was engaged in the month of May and June, 1939, and, in fact, throughout that entire year, being conducted by him under any contract in writing between himself and the Long Lake Lumber Company?      A. Yes.

(Thereupon a document was marked as Respondents' exhibit No. 4 for identification.)

Q. (Mr. Potts): I hand you an instrument which has been marked as Respondents' exhibit 4 for identification. Please examine it [833] and state, if you know, what it is (indicating).

A. Yes, I went over this to refresh my memory. This is a contract made in January, 1939.

Q. With whom?

A. With Mr. Robinson and the Long Lake Lumber Company.

Q. And do you know the signatures to that instrument?      A. Yes, I do.

Q. And the signature of D. E. Brown, for the Long Lake Lumber Company, whose signature is that?

A. That is my brother's signature.

Q. David E. Brown?      A. Yes.

Q. Is he an officer of the Long Lake Lumber Company?      A. Yes.

Q. What office does he hold?

A. Secretary-treasurer.

Q. Was he such at that time?      A. Yes.

Q. And F. D. Robinson,—      A. Yes.

(Testimony of James M. Brown, Sr.)

Q. Is that the signature of F. D. Robinson?

A. Yes.

Q. Did you have anything to do with this contract before it was actually signed by your brother?

A. Yes, I went over it, and had it roughly written, and was [834] with him when he drew it up.

Q. And is this written instrument under which the 1939 logging operations were being conducted by Mr. Robinson?           A. Yes.

Mr. Potts: We offer in evidence Respondents' exhibit 4 for identification, and request permission to substitute and prepare a copy, since it is an original contract.

Trial Examiner Hektoen: When was the contract dated?

Mr. Potts: January 26, 1939.

Mr. Walker: I have no objection.

Trial Examiner Hektoen: It may be received, and a copy may be substituted for the original.

(Thereupon the document heretofore marked Respondents' exhibit No. 4 for identification was received in evidence.)

(Testimony of James M. Brown, Sr.)

RESPONDENTS' EXHIBIT No. 4

E. C. Wert, Vice President  
Manufacturers  
Long Lake Lumber Company  
Spokane, Washington

J. M. Brown, President

Main Office

348 N. Wall Street

Two Mills

250,000 Ft. Daily Capacity

Millwork Plant

Spokane Pine Products Co.

W. J. Johnson, Mgr.

D. E. Brown, Sec'y-Treas.

Idaho White Pine

Ponderosa Pine

Fir and Larch

Mouldings, Lath

K. D. Window Frames

Unitrim::Pactrim

Cut Stock

Cedar Posts

Mr. F. D. Robinson

January 26, 1939

Sandpoint

Idaho

Dear Sir:

All agreements contingent upon fires, strikes and other conditions beyond our control. Stenographic

(Testimony of James M. Brown, Sr.)

and clerical errors subject to correction. All quotations subject to previous sale and change without notice. All contracts subject to approval by home office.

We are passing credits of \$8098.01 as of December 31, which takes up your operating losses for 1938. After checking with your bookkeeper, Mr. Davis, this leaves you owing us \$24,924.06 according to your books. On our books it will show \$4445.20 less as we have not charged you with the check sent to the Shell Oil Co. until after the first of the year.

In the above amount, we are assuming \$500.00 owing to the Anchor Securities Co., \$498.50 balance owing on shovel and \$2099.51 balance owing on Monarch Cat. Under this settlement, you have been paid for all improvements on Caribou and Pack River in full such as roads, camp buildings (including blacksmith shop), landings, fire trails, and other work already accomplished. This also pays for the decking and prepays the loading on all the logs at the track as of January 1, 1939.

After January 1, 1939, we will pay you for logging out of Caribou and loading on cars on the SI or GN on Idaho White Pine \$8.75 per M, Spruce \$8.00 per M, Cedar \$7.75 per M and \$7.50 per M on Mixed. You are to put in the quantities and specie specified at the time designated by us. These prices contemplate the maintenance and upkeep by

(Testimony of James M. Brown, Sr.)

you of all camps, the extension of roads, of landings and the disposal of brush.

Revision or cancellation of this deal may be made by either party by giving thirty days written notice. You are familiar with the contract which we have with the Humbird Lumber Company and all work must be done to conform with this.

This, we believe is in accordance with our understanding with you and if you agree with us, we will ask you to sign under the work "Accepted" and return the original for our files.

Yours very truly,

LONG LAKE LUMBER  
COMPANY,

By D. E. BROWN.

Accepted:

By F. D. ROBINSON.

Precision

Quality

Spokane Pine

Mfd. By

Spokane Pine Products  
Co.

Spokane, Wash.

Western Pine

WPA

Association

We Specialize in Mixed-Car Shipments of Lumber,  
Mouldings, Frames, Trim, Lath, Cedar Posts

(Testimony of James M. Brown, Sr.)

Q. (Mr. Potts, continuing): Do you recall when you commenced construction of the Colburn Creek Dam? A. Yes.

Q. Do you remember about what season of the year?

A. I imagine it was somewhere around August.

Q. It was in 1939? A. Yes.

Q. In the summer of 1939?

A. Yes, in the summer of 1939.

Q. Now, at that time, did you make any arrangements with F. D. Robinson in connection with the construction of that dam? [835]

A. Yes, I,—

Q. (Interposing): You did make such arrangements? A. Yes.

Q. Prior to making such arrangements, had you completed your design for construction and determined what the Long Lake Lumber Company wanted done? A. Yes.

Q. In the way of constructing a dam?

A. Yes.

Q. What was the purpose of its construction, with reference to creating any physical conditions?

A. With reference to creating a pond large enough to hold a sufficient volume of logs for us.

Q. And what was the reason for that?

A. I don't understand.

Q. Why did you change to this method of having water storage?

A. There were two reasons: in the first place, our largest mill,—both mills are in the city of Spo-



(Testimony of James M. Brown, Sr.)

kane. The largest mill has an artificial pond, and there is not any room for expansion, and we just could not handle the logs fast enough. And the other is that the logs deteriorate when they are left any length of time on skids; and they deteriorate very rapidly in hot weather.

Q. Does the fact that they are in water help to preserve them?

A. Yes, that helps to preserve them a great deal. [S36]

Q. Who, if anyone, on behalf of the Long Lake Lumber Company handled the location and design and other matters in connection with that dam?

A. Well, aside from conferring with everyone whom I had known, or who had built a dam in this country, Mr. Breen.

Q. That is, he was the director in charge, was he?

A. Yes, sir.

(Thereupon a letter was marked as Respondents' Exhibit No. 5 for identification.)

Q. (Mr. Potts, continuing): I hand you a paper which has been marked as Respondents' exhibit 5 for identification. Will you state what that is, if you know?

A. I have not seen this, even, I believe. Let's see,—yes, that is the agreement that we made with Mr. Robinson.

Q. Mr. F. D. Robinson? A. Yes.

Q. In August, 1939? A. Yes.

Q. Being dated August 18, 1939?

(Testimony of James M. Brown, Sr.)

A. That is correct.

Q. Covering the construction of the Colburn Creek Dam? A. Yes.

Q. Is that signature, D. E. Brown, on behalf of the Long Lake Lumber Company?

A. Yes. [837]

Q. That is the signature of David E. Brown, Secretary-Treasurer of the company?

A. Yes.

Q. And do you recognize the signature of F. D. Robinson there? A. Yes.

Q. That is the signature of Mr. F. D. Robinson there? A. Yes.

Q. And you might state whether or not that is the agreement with Mr. Robinson, under which he did do the work? A. Yes.

Q. That is the agreement under which he did do the work in connection with the construction of the Colburn Creek Dam? A. Yes.

Mr. Potts: We offer in evidence Respondents' exhibit No. 5.

Trial Examiner Hektoen: Do you wish to substitute a copy?

Mr. Potts: And I request permission to substitute a copy, which has been prepared.

Mr. Walker: No objection.

Trial Examiner Hektoen: It will be admitted, without objection.

(Thereupon the document heretofore marked Respondents' exhibit 5 for identification was received in evidence.)

(Testimony of James M. Brown, Sr.)

RESPONDENTS' EXHIBIT No. 5

August 18, 1939.

Mr. F. D. Robinson  
Sandpoint,  
Idaho.

Dear Sir:

Confirming our verbal conversation, you are to furnish all the labor and all the material for the construction of the dam, skidways, etc., on Colburn Creek, as outlined by the plan made up by Mr. Breen.

We are to reimburse you for all the money expended, and allow you a 10% addition for supervision, liability, etc. Where you use your own equipment, a reasonable rental charge may be put against the job.

You understand that it may be necessary to revamp some of the plan as work progresses, and you agree to make these changes as we suggest. Mr. Breen will give you any help or assistance which you ask, but will not take any of the responsibility of the operation of the job.

After the job is completed, and we have settled with you on the above basis, the improvements will belong to the Long Lake Lumber Company.

If this is in exact accordance with your understanding, will you kindly sign under the word "Ac-

(Testimony of James M. Brown, Sr.)

cepted", returning the original copy to us and retaining the copy for your files.

Yours very truly,

LONG LAKE LUMBER COMPANY,

By: D. E. BROWN.

Accepted:

F. D. Robinson.

---

Q. (Mr. Potts, continuing): Mr. Brown, did the Long Lake Lumber Company pay the costs of the construction of that dam, or reimburse Mr. Robinson for expenditures made by him thereon? A. Yes.

Q. In accordance with that agreement?

A. Yes.

Q. What is the fact with reference to the use of the equipment on the Dam in construction work?

A. What do you mean?

Q. Did Mr. Robinson use some or all of his equipment in connection with that work?

A. He used some of his equipment, for which we paid him.

Q. And on what basis? That is to say, was it on a rental basis?

A. Yes, on a rental basis.

Q. And has that dam been entirely completed?

A. Yes.

Q. And to whom does it belong?

(Testimony of James M. Brown, Sr.)

A. It belongs to the Long Lake Lumber Company.

Q. Has Mr. F. D. Robinson any interest in it whatsoever?      A. None whatsoever.

Mr. Potts: May we have a short recess, Mr. Examiner; about ten minutes?

Trial Examiner Hektoen: How much do you want?

Mr. Potts: I would say about ten minutes.

Trial Examiner Hektoen: All right, we will be in recess until five minutes to three by this clock.

[S39]

(Thereupon, at this time a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Hektoen: The hearing will be in order. Go ahead, Mr. Potts.

In your description of the roads you mentioned, their steepness, and so forth, are you sufficiently advised to tell us in a general way about the grades of the different roads? It would be a little more illustrative if you could.

The Witness: I want to make a correction, if I may.

Trial Examiner Hektoen: Certainly.

The Witness: I started to state that this road was begun in,—I stated that it started from Pack River in Section 15; it should have been Section 14.

Q. (Mr. Potts, continuing) And where you said Section 15, it should have been Section 14?

(Testimony of James M. Brown, Sr.)

A. Yes.

Q. That is, it is east of Section 15, as shown on the map, respondents' exhibit No. 3, which map does not show Section 14? Is that what you mean, Mr. Brown? That is what you mean, is it not?

A. Yes; it does not show.

Q. Now, what about the grades on the roads? Are you in a position to state?

A. I know something about them, but I don't know exactly. I could tell you approximately. [840]

Q. Well, approximately?

A. The average grade on the main road coming out of the Caribou Creek Bridge, to a short distance east of the east line of Section 17, it would average about, somewhere between 7 and 8 per cent., I believe.

Q. All right. What about the grades?

A. That is what I was telling you.

Q. From then on?

A. From then on, into camp?

Q. Yes.

A. I imagine it would be somewhere around,—well, it goes up and down, and it is pretty hard to tell. The grade go up and down, so you would not have an average; but it would probably be a 7 per cent. grade, taking all the grades as an average; and after you get away from the main road in any direction, excepting down to the Creek,—away from the camp and away from the main roads,—then they run up to,—they are extremely steep. I wouldn't

(Testimony of James M. Brown, Sr.)

venture to guess, but I would say that they are extremely steep.

I wouldn't venture to guess, as I say, but there are roads where you have to go in low gear with a car.

Q. When they are dry or when they are muddy?

A. Both times.

Q. If they are muddy, can you make it in low gear? A. No, indeed not. [841]

Q. Mr. Brown, I call your attention to a sentence in the contract between the Long Lake Lumber Company and F. D. Robinson, dated January 26, 1939, covering the Caribou Basin Logging operations, being respondents' exhibit No. 4, reading:

"You are familiar with the contract which we have with the Humbird Lumber Company, and all work must be done to conform with it."

To what contract did that provision or sentence in your contract with Mr. Robinson refer?

A. To the purchase contract of the timber in the Caribou-Hell Roaring Basin.

Q. In other words, to the contract of June 28, 1935 between the Humbird Lumber Company and the Long Lake Lumber Company, in evidence as respondents' exhibit No. 2? A. Yes.

Q. That is the contract referred to by that sentence in your contract with Robinson?

A. Yes.

Q. Now, to what work was reference made in that sentence, in providing that all of the work must be done to conform with that contract?



(Testimony of James M. Brown, Sr.)

A. All work in the process of logging the timber in a workman-like manner in the Caribou Basin.

Q. Now, when you refer to logging in a workman-like manner, what does that include, specifically? What does that mean? [842] Beginning with it, start right at the stump, at the sawing of the trees,—

Mr. Walker: May I interrupt?

Mr. Potts: Certainly. [843]

Trial Examiner Hektoen: All right.

Mr. Potts: At least, I will undertake to do it.

Trial Examiner Hektoen: All right.

Q. (Mr. Potts) After entering into your logging contract for the logging of this timber with Mr. Robinson, I wish that you would state generally just what each party to the contract did in the operation with respect to the logging of that timber? Take Robinson first; what did Robinson do?

A. He did the logging.

Q. Yes, I know. In doing the logging, just what part of the operation was under his direction and control?

A. The mechanical work of taking the tree from the stump to the time that it was loaded onto the car.

Q. From the stump, which starts with what?

A. Sawing the tree down.

Q. And the process of swamping and skidding, sawing the logs,—

A. The most important part to start with, is to saw the logs at the proper place, and in such a way

(Testimony of James M. Brown, Sr.)

that the greatest number of logs can be gotten out of the timber.

Q. Is it necessary for the sawyers first to saw it close to the ground?      A. Yes.

Q. So that stumps of unusual length would not be left above the ground?      A. Yes. [849]

Q. That is, sawing the stumps at the proper height, and then the next question comes to the sawing of the logs into proper lengths?

A. Yes.

Q. Without the unnecessary overrun?

A. Yes.

Q. You say that Mr. Robinson handled the logs from the stump to the car?      A. Yes.

Q. Did you or the Long Lake Lumber Company have any direction or control of that operation?

Mr. Walker: I will object to that as calling for a conclusion of the witness; that is one of the matters that is in issue.

Trial Examiner Hektoen: The witness may state what was done.

Q. (Mr. Potts, continuing) Well, I will have to reach that ultimately in some way, because that is the test.

Now, with reference to the sawing of the trees, that is the sawing or the skidding or the cutting of the logs, or the hauling or the loading; who handled that?      A. Mr. Robinson.

Q. Did the Long Lake Lumber Company have anything to do with that?

Mr. Walker: Just a moment. Same objection. It

(Testimony of James M. Brown, Sr.)

calls for a conclusion of the witness, and a conclusion of law. [850]

Mr. Potts: I think that is a statement of fact, whether he had anything to do with it or not.

Mr. Walker: Then I object on the ground that it is too indefinite.

Trial Examiner Hektoen: Can you make that a little bit more definite? Let us take one thing at a time.

Break that up, if you will.

Q. (Mr. Potts, continuing) Did the Long Lake Lumber Company direct the sawyers in the sawing of the trees? A. No.

Q. Did it employ them? A. No.

Q. Did it direct the swampers, or did it direct the sawyers in the sawing of the trees into saw logs after they were down? A. No.

Q. Did it employ them? A. No.

Q. Did it direct the skidders in the skidding of the logs to the roads or the landings?

A. No.

Q. Did it employ the skidders? A. No.

Q. Did it direct the truckmen in the loading of the logs on their trucks, if they loaded them, or the trucking of the logs from the woods to the landings?

[851]

A. No.

Q. Did it employ them? A. No.

Q. Did it direct the loaders at the landings, at the railroad sidings, as to the loading of the logs onto the railroad cars? A. No.

(Testimony of James M. Brown, Sr.)

Q. Or did it employ them? A. No.

Q. Who did the directing of those men, and who did employ them? A. Mr. Robinson.

Q. Who fixed their wages, salaries, or compensation? A. Mr. Robinson.

Q. Did the Long Lake Lumber Company direct Mr. Robinson as to who he should employ on any of those operations that I have just defined,—as to who he should employ, or as to when he should employ them, or how long he should employ them or keep them in employment? A. No.

Q. Did the Long Lake Lumber Company know the individuals whom Mr. Robinson employed; that is to say, did its officers know who were going to be employed by him? A. No.

Q. Now, in this logging operation in the Caribou Basin, was a cookhouse maintained for providing meals for the employes working [852] there?

A. Yes.

Q. Who conducted that cookhouse? That is to say, was it done by the Long Lake Lumber Company or Mr. Robinson? A. Mr. Robinson.

Q. Did the Long Lake Lumber Company have anything to do with the cookhouse?

A. Nothing whatever.

Q. Who employed the cook and the bullecook?

A. Mr. Robinson.

Q. Mr. Robinson did? A. Yes.

Q. Who paid them?

A. He paid them, I hope.

(Testimony of James M. Brown, Sr.)

Q. Did the Long Lake Lumber Company employ any of them?      A. No.

Q. Did it fix their salaries?      A. No.

Q. Was a blacksmith maintained in connection with that operation? Was there a blacksmith shop there?      A. Yes.

Q. By whom was that maintained?

A. Mr. Robinson.

Q. Did the Long Lake Company employ the blacksmith?      A. No. [853]

Q. Did it pay the blacksmith's salary or wages?

A. No.

Q. Or did it direct Mr. Robinson whom he was to employ as blacksmith?      A. No.

Q. In an operation of that size, was it necessary to have considerable logging equipment on hand?

A. Yes.

Q. Do you know, from year to year, in a general way, the kind and type of logging equipment which Mr. Robinson uses there?      A. Yes.

Q. Were you up there from time to time during the logging season, Mr. Brown?      A. Yes.

Q. And did you look over the operations generally, occasionally?

A. Yes, the same as all operations.

Q. The same as all operations,——

Trial Examiner Hektoen: You did look over the operations occasionally, generally, didn't you?

The Witness: Yes, with reference to any camp wherever we got logs, I always did that.

Q. (Mr. Potts) Now, did the Long Lake Lum-

(Testimony of James M. Brown, Sr.)

ber Company during the years involved in this operation, from 1936 to 1939, inclu- [854] sive, have any logging equipment on that operation?

A. No, we not only had no logging equipment on that operation, but neither did we own any logging equipment any place.

Q. In other words, the Long Lake Lumber Company didn't have any logging equipment?

A. We don't have any camp equipment any place of any kind whatsoever; we have not, for years.

Q. Well, while we are still at that point, I want to direct your attention to two loading jammers located somewhere,—I think it was at the Samuels Siding? A. Yes.

Q. On which railroad were they located?

A. There are three jammers; two were located on one, and one on the other.

Q. Did the Long Lake Lumber Company purchase those two loading jammers from the Humbird Lumber Company at some time? A. Yes.

Q. And were they implements or equipment that was used in the woods, or were they used only at the landing?

A. They could be used only on the railroads, at the landing.

Q. What were they used for?

A. For loading logs on cars.

Q. That is, when the trucks would come in with the logs, either taking logs directly from the truck and loading the logs onto the cars, or loading from the landing. [855]



(Testimony of James M. Brown, Sr.)

Q. None are loaded directly,—unloaded directly from the trucks?      A. I don't think so.

Q. These loading jammers were for the purpose of lifting the logs from the skidders, lifting them onto the cars?      A. Yes.

Q. What are the facts with reference to the use of those two loading jammers after the Long Lake Lumber Company acquired them from the Humbird Lumber Company? What were they used for?

A. For loading logs on cars.

Q. More specifically, what logs?

A. They were used for loading all the logs that were purchased for us, or that were purchased in this territory.

Q. In other words, they were not used for loading logs exclusively that came from the Caribou Basin?      A. No.

Q. Did you enter into some arrangements with Mr. Robinson for using those loading jammers, for the loading of your logs acquired from all sources but delivered at those sidings?      A. Yes.

Q. Did Mr. Robinson use those jammers, pursuant to that arrangement?      A. Yes.

Q. Did the use for loading all the rest of the Long Lake [856] Lumber Company,—change that, please. Did he use them for loading all the rest of the Long Lake Lumber Company logs as well as the logs which he produced and delivered there himself?      A. Yes.

Q. And did that arrangement entail some meth-



(Testimony of James M. Brown, Sr.)

od of compensating him for loading other logs, by permitting him to use the jammers for loading his own logs?           A. Yes.

Q. Now, as to the payment for that use, you said that you entered into an arrangement?

A. Yes.

Q. Turning to the equipment for a moment, which was used by Mr. Robinson, in his logging operation: generally speaking, was that rather extensive, or of small consequence in amount?

A. Well, there was a good many thousands of dollars involved.

Q. I think that you have testified that the Long Lake Lumber Company did not own any of it?

A. No.

Q. At any time?           A. At any time.

Q. Did the Long Lake Company assist Mr. Robinson in the financing of the purchases of some of the power equipment?           A. Yes.

Q. And did it assist its other logging contractors with whom it had deals in the purchase of such equipment? Did it do the [857] same for other logging contractors with whom it had dealings?

Mr. Walker: I will object to that on the ground that it is incompetent, irrelevant and immaterial.

Trial Examiner Hektoen: He may answer.

A. Yes, a great many of them.

Q. (Mr. Potts, continuing) Now, we will come back to where we made one start; just what did the Long Lake Lumber Company do in connection with this operation in connection with enforcing

(Testimony of James M. Brown, Sr.)

compliance with the agreement which the Long Lake Lumber Company had with the Humbird Lumber Company, to see that the contract was complied with? In the first place, who scaled the logs that were purchased from them?

A. The Humbird Lumber Company.

Q. The Humbird Lumber Company scaled those logs?

A. Yes.

Q. Where?

A. At the landing; at the track.

Q. And the scalers who did the scaling were employed by the Humbird Lumber Company?

A. That is correct.

Q. They were employes of the Humbird Lumber Company?

A. They were employes of the Humbird Lumber Company.

Q. Now, that scale made at the landings at the railroad tracks was a basis for what? What was that used for?

A. We paid the Humbird Lumber Company on the scale that was [858] made at the landings, and we also paid Mr. Robinson for logging of the same scale.

Q. In other words, the three of you accepted that scale as the basis for settlement on your respective contracts?

A. Yes.

Q. Now, did the Humbird Lumber Company have any other employes working in connection with that logging operation?

(Testimony of James M. Brown, Sr.)

A. What was the question?

(Thereupon the pending question was read aloud as above recorded.)

Q. (Mr. Potts, continuing) Did the Humbird Lumber Company have any other employes working in connection with that logging operation?

A. Yes.

Q. In the woods? A. Yes.

Q. For what purpose? What did they do?

A. They checked to see that the timber was cut and handled according to the contract.

Q. To what extent were they present on the job during the course of the operation?

A. Of course, I don't know; I was not there, but I know that they were there plenty to see that everything was done properly, and to see that they kept after it. [859]

Q. Do you know whether the Humbird Lumber Company had a scaler in the woods checking up?

A. Yes, an inspector.

Q. And inspector? A. Yes.

Q. What would he do in connection with the operations in the way of inspecting?

A. Well, he went over the ground continuously to see that the job was done in a workmanlike manner; I think that he spent the greater portion of his time between that job and another job of a similar nature with the Diamond Match Company.

Q. In doing that, what would he do with reference to specific things?

(Testimony of James M. Brown, Sr.)

A. What do you mean?

Q. For instance, the logs which had been cut? Would he measure them?

A. Yes, he measured the length; he measured the stumps, and watched the skidding to see that the new growth was not disturbed, and so on.

Q. You are required by the terms of the Humbird contract to provide for brush disposal and for all slash created in the logging of that timber?

A. Yes.

Q. What, if anything, did the Humbird Lumber Company do on the ground, with reference to that?

A. They demanded that it be disposed in accordance with the laws [860] of the State and under the terms of their contract.

Q. What did the Long Lake Lumber Company do with respect to seeing that that was done?

A. We insisted that it be done.

Q. What did you do with reference to it?

A. We put a man in there to watch it.

Q. And in the case of the slash having been created by anyone other than Robinson; for instance, the cedar slash that has been testified to here, created by Earl Davis? Did the Long Lake Lumber arrange to have that disposed of?

A. Yes.

Q. Mr. Brown, did you or the Long Lake Lumber Company have any of its employes do any work in connection with this operation in order to determine that the Humbird Lumber Company contract was being complied with?

(Testimony of James M. Brown, Sr.)

A. Yes, we had them investigating it frequently, just as Humbird did; many times, we had them go with Mr. Humbird's man to discuss the situation.

Q. Now, during the year 1938 and the year 1939, who did most of that work? A. My son.

Q. Your son, James Brown, Jr.? A. Yes.

Q. Who employed him to do that work which he did on that job?

A. The Long Lake Lumber Company. [861]

Q. And, individually, did you employ him?

A. Yes.

Q. Who gave him his instructions as to what he was to do? A. I did.

Q. And what did you instruct him to do on that job?

A. I instructed him and all of those men who worked on that job, to watch it continuously and most rigidly, to see that Mr. Robinson would conform with the Humbird contract, particularly, and at all times I advised them that it was Mr. Robinson's job, and not ours.

Q. Did you instruct James Brown, Jr. or any other employee of the Long Lake Lumber Company to direct Mr. Robinson in the conduct of his logging operations on that job? A. No, sir.

Q. Did any employee of the Long Lake Lumber Company have authority to direct Mr. Robinson in the conduct of his logging operations?

A. Positively not.

Q. Did you at any time direct Mr. Robinson in the conduct of his logging operations?

(Testimony of James M. Brown, Sr.)

A. No, I did not. I think I was only in there four times in 1939; I was busy.

Q. Was one of those occasions when you were in there in 1939 on or about the 17th day of August, with your brother, David Brown? [862]

A. Well, I was in there with Dave, but I can't check the date.

Q. Were you there with Dave Brown more than once in 1939?           A. No, just once.

Q. Do you know whether or not that is the first time Dave Brown was ever in there?

A. No, he has been there before; he had been there before. I don't know whether he has been there every year or not; I don't remember.

Q. In his employment and connection with the Long Lake Lumber Company, did he have anything to do whatever with the logging operations?

A. No.

Q. That is outside of the office?           A. No.

Q. In the office, did he have some supervision over the books and records?

A. Oh, yes; in the office, he did.

Q. How did it happen that he went up there on this particular occasion in 1939, when the two of you were there together?

A. He drove me up there, because he was coming up to look over some machinery in the Humbird shops; I think we drove on up. We drove on up after that.

Q. Did you come on any other business?



(Testimony of James M. Brown, Sr.)

A. I did, myself; I would have no way of coming up if he didn't come. [863]

Q. For what purpose?

A. It was one of my regular trips.

Q. And did this trip have anything to do with any controversy between Mr. Robinson and any labor union, or any of his employes? A. No.

Mr. Walker: I will object to that as calling for a conclusion of the witness and a conclusion of law, and move that the answer be stricken.

Trial Examiner Hektoen: It certainly calls for a conclusion.

Mr. Potts: It is a matter of the state of mind of which only the witness can testify to.

Trial Examiner Hektoen: That is true. The objection is sustained.

Q. (Mr. Potts): Well, the camp was running at that time, was it not, Mr. Brown? A. Yes.

Q. And did you spend much time around there?

A. Very little.

Q. And did you discuss with Mr. Robinson or anyone else on that trip any matters in connection with any controversy that he had with any of his employes, or any labor union? A. No.

Q. On another occasion, sometime before, the date of which I have forgotten at the moment, were you up in the woods somewhere or at the camp discussing the matter of constructing [864] a jammer that would stand up and work 8 hours without breaking down? Do you recall that testimony?

A. Yes.



(Testimony of James M. Brown, Sr.)

Q. Do you recall any such conversation?

A. I don't recall it. It might have happened, but I don't recall it.

Q. You say that it might have happened? Were you interested in logging equipment?

A. I am interested in the equipment of every logger who produces logs for us, that he may get the most efficiency out of the machinery, or the most efficient kind of machinery for the purpose of keeping his costs down, in order that we may learn to keep our costs down.

Q. How does that affect you?

A. It might affect us a great deal, in the cost of our logs.

Q. Were you very much interested in the cost of jammers?      A. Indeed, I was, very much.

Q. Do you know where you were on Monday, June 5, 1939?      A. No, I don't.

Q. Or on Tuesday, June 6th, 1939?

A. No, I don't.

Q. Or on Wednesday, June 7, 1939?

A. No, I don't; I am not positive.

Q. Did you on any of those days, or at any other time, instruct Mr. Robinson to close down that logging camp? [865]

A. Indeed, I did not.

Q. Or did you authorize or direct your son, James Brown, Jr. to instruct Mr. Robinson to close down that camp?      A. I did not.

Q. Did James Brown, Jr. have any authority—

A. (Interposing): None whatever.

(Testimony of James M. Brown, Sr.)

Q. (Continuing): —to tell Mr. Robinson to close down that camp? A. None whatsoever.

Q. Did he, during the fall of 1938 have any such authority? A. No.

Q. Or at any other time? A. No.

Q. How long had Mr. F. D. Robinson been contracting with the Long Lake Lumber Company as a logging contractor prior to this Caribou Basin job?

A. Prior to the Caribou Basin job?

Q. Yes.

A. Oh, I would say about ten years.

Q. What is the fact as to whether or not Mr. Robinson was customarily engaged in the business of a logging contractor?

A. Yes, he has been.

Q. For how many years?

A. For more than 20 years that I know of, because he was logging before the Long Lake Lumber Company was organized. [866]

Q. And do you of your own knowledge know of some other logging operations that he conducted before?

A. When he was contracting for us?

Q. Contracting for others?

Mr. Walker: Just a moment. I think that we are getting pretty far afield, for which reason I object on the ground that such testimony would be incompetent, irrelevant and immaterial.

Mr. Potts: I am inclined to think that it is material, although perhaps it is not essential.

(Testimony of James M. Brown, Sr.)

Trial Examiner Hektoen: Of course, if he has been logging for 20 years, I take it your question has been answered.

Mr. Potts: It really is in connection with an allegation in the pleadings that I don't think is very material myself. I think that is all.

Trial Examiner Hektoen: Do you have any questions, Mr. Hunt?

Mr. Hunt: No.

Trial Examiner Hektoen: We will be in recess until 4:00 o'clock. We have a little over one hour.

(Thereupon, at this time there was a recess taken until 4:00 p. m. at which time proceedings were resumed as follows:)

Mr. Potts: Before cross examination commences, Mr. Examiner, another line of inquiry has been suggested to me by associate counsel, and may I proceed with that? [867]

Trial Examiner Hektoen: Surely.

Q. (Mr. Potts, continuing): Mr. Brown, I want to ask you about the nature of the logging operations in the Caribou Basin with reference to seasons.

For instance, during what season of the year is the operation conducted?

A. Well, the hauling is a very short season. Two years ago, I think it was, there were only 81 days of hauling, according to Mr. Robinson's records.

Q. By "hauling", you mean the trucking of logs from the woods to the landings? A. Yes.

(Testimony of James M. Brown, Sr.)

Q. What affects the hauling season or the trucking season more than anything else?

A. The wet weather; it is at quite an elevation.

Q. Now, speaking of the operation as a whole, is it feasible or practicable or customary to attempt to operate it throughout the year? A. No.

Q. Why not?

A. Because there are times when a man can walk directly over the buildings on snowshoes.

Q. Those are weather conditions?

A. Yes.

Q. Especially deep snows in the winter? [868]

A. Yes.

Q. Do you have in mind when it is usual to start opening up the camps in the spring, from your observations and investigations?

A. Well, from a cost standpoint and a practical standpoint, it is much better not to open up at all, except for cutting poles which must of necessity be cut in the spring over the ground that has been previously logged,—it is not practical to open up until later. The camp should not be opened up until late in the spring, much later on.

Q. Which part of the spring?

A. It is muddy there in the latter part of May or the early part of June; and we don't consider opening up before that.

Q. How late in the fall can the logging be accomplished, or the trucking be done?

A. Depending entirely upon the weather. That depends on how the lateral roads from the main

(Testimony of James M. Brown, Sr.)

roads are, whether trucks can go back with the logs.

Q. Usually, what time in the fall is there a close-down?

A. From a practical standpoint, since Mr. Robinson has been contracting there, I would say from October 10 to October 15 as the earliest part, and up to November 15.

Q. The difference depending upon the fall weather? A. On the weather, yes.

Q. Is it what is known as a seasonal operation?

[869]

A. It is a seasonal operation, definitely.

Mr. Potts: That is all.

#### Cross Examination

Q. (Mr. Walker) Mr. Brown, was that two years ago when there were only 81 trucking days?

A. One of the years he was in there; I don't know which one it was; I think it was two years ago; I am not sure.

Q. Can you state how many days of falling, bucking, skidding and decking in the woods were conducted?

A. That depends entirely upon the number of trucking days.

Q. The falling and bucking depends upon the number of trucking days? A. Yes.

Q. That is the situation in every season?

A. Yes.

Q. Was it your testimony that you did not instruct Mr. Robinson to close down the camp at any time in the month of June, 1939?

(Testimony of James M. Brown, Sr.)

A. No, sir; I would certainly consult my attorney before I would ask him to close down.

Q. And did you have a conversation with Mr. Robinson relative to his camp being organized?

A. What time was that?

Q. Prior to June 7, 1939?

A. No, sir; I did not. [870]

Q. You are certain of that?

A. I am certain of that.

Q. You are certain that on the trip up there with your brother David in August of 1939, you did not discuss any matter pertaining to a labor union at that time? A. With whom?

Q. Mr. Robinson.

A. I am sure,—I am not sure that I even saw Mr. Robinson that day. I remember Dave and I going up to the woods together, but I am not sure that we saw him. I don't remember seeing him that day.

Q. On that day, when your brother and yourself went up to look at the machinery at Humbird?

A. I didn't go to look up the machinery, or to look at the machinery at Humbird.

Q. On the day when you went up with your brother, when he looked at the machinery at the Humbird, did you see Mr. Robinson on that day?

A. I don't remember.

Q. I believe that you stated that you don't recall whether you were up there on Monday, June 5?

Let me change that: you stated that you didn't recall where you were on Monday, June 5?



(Testimony of James M. Brown, Sr.)

A. No.

Q. Do you recall where you were on Sunday, June 4? [871]

A. I am not sure, but I think I was fishing on Hayden Lake.

Q. Do you or do you not recall where you were on Tuesday, June 6?

A. No, I don't, but I think that I was fishing on Hayden Lake and didn't get back until very late that night; I had motor trouble. That is the one I told you about, that if my wife were here, she could help you.

Q. Are you a member of the City Club in Spokane?      A. Yes.

Q. Do you recall what you did when you returned to Spokane on Tuesday, June 6th?

A. No, I don't.

Q. Refreshing your recollection, do you recall to whom you talked that evening? Let me put it this way: about what time did you get in Spokane that evening?      A. What evening?

Q. Tuesday, June 6th.

A. I don't remember where I was.

Q. You remember that you were at Hayden Lake?

A. No, I didn't say that; I said I thought I might be there.

Q. Does it refresh your memory that you had a telephone conversation from your Hayden Lake home with Mr. Robinson in the fore part of the day of Tuesday, June 6, 1939?



(Testimony of James M. Brown, Sr.)

A. No, I don't think that I did.

Q. What was Mr. Robinson's telephone number in June of 1939? [872] Do you know?

A. His telephone number here?

Q. Yes. A. No, I don't.

Q. During the month of June, 1939, you had a telephone installed in your residence, did you?

A. Where?

Q. In Spokane? A. Yes.

Q. And that number is what?

A. Riverside 2434.

Q. Now, do you recall having a telephone conversation,—strike that. Do you recall placing a telephone call from Riverside 2434 at Spokane to 18-F-11 at Sand Point, Idaho, at 6:52 p.m. Tuesday, June 6, 1939?

A. No. I checked all those things over, trying to refresh my memory, myself.

Q. Do you recall placing a telephone call from your residence in Spokane, Washington, to Mr. Frank Robinson, person-to-person, in Sand Point, Idaho, at 7:18 p.m.? That is, on June 6, 1939?

A. No, I don't; but one of those days, my son Larry was very urgently trying to get Jim. I don't recall what day it was. One of those could have been those calls. He told me that he called Robinson and tried to get Jim.

Q. What is his name? [873] A. Larry.

Q. What are his initials?

A. L. V., I believe.

(Testimony of James M. Brown, Sr.)

Q. Let me try to refresh your memory, once more: after placing the call at 7:18 p.m., do you recall whether you instructed the operator to check the call from the City Club in Spokane, Washington, and change it from a person-to-person call, and that you would talk with anyone listed at 18-F-11?

A. No. That sounds more like Larry.

Q. And that the conversation began at 7:36 and lasted for 6½ minutes?

A. Mr. Walker, I don't believe I ever talked 6½ minutes to any camp in my life, and particularly to Mr. Robinson.

Q. I don't believe that that answers my question. Mr. Reporter, will you read it?

(Thereupon the last question was read aloud by the reporter as above recorded.)

A. I don't remember. I think—I don't think it would, because I instructed everyone not to talk business on that line; I don't believe that he did.

Q. And I think you said you made four calls at the camp during the year 1939?

A. I said I only remember being there four times.

Q. Did you ever confer with Mr. Robinson in your office at Spokane, Washington, at a time during the operating season of [874] 1939,—at any time during the operating season of 1939?

A. Well, if he came to the office, I did,—if I was there, I did.

Q. Do you recall whether or not you conferred with Mr. Robinson on Saturday, July 1, 1939, at your office?      A. No, I wouldn't remember.

(Testimony of James M. Brown, Sr.)

Q. Do you recall Mr. Robinson calling at your office for the purpose of obtaining a \$500 check?

A. Check to whom?

Q. To himself, Mr. Robinson?

A. No, I don't remember.

Q. Where are the cancelled checks kept, Mr. Brown?      A. Which cancelled checks?

Q. Of the Long Lake Lumber Company?

A. I suppose, in the office.

Q. And are they signed only by your brother, or do you countersign them?

A. They are signed either by my brother, my brother-in-law, or myself; any one of us can sign them.

Trial Examiner Hektoen: Who is your brother-in-law?

The Witness: Mr. E. C. Wert.

Q. (Mr. Walker) Did you and your brother have occasion to examine Mr. Robinson's books?

A. No; I never looked at his books, that I know of.

Q. Does your brother? [875]      A. No.

Q. Mr. Brown, referring to what has been marked as respondents' exhibit No. 4, is that the settlement sheet at the conclusion of the 1938 season?

A. Yes.

Q. Is it correct that Mr. Robinson received compensation upon the basis of logs fob cars, Samuels Siding?

A. Yes, unless we advance him on work in the woods.

(Testimony of James M. Brown, Sr.)

Q. And on the work which is done prior to the time the log is on board the car, is that work which must be done by Mr. Robinson, is that correct? A. Sir?

Trial Examiner Hektoen: Will you read the question, please?

(Thereupon the last question was read aloud by the reporter as above recorded.)

A. If it comes under his contract, that is correct.

Q. (Mr. Walker) And all work that he does until the log is brought on board the car must be done by him in conformity with the requirements set out or referred to in your Humbird contract, which is marked as Respondents' exhibit No. 2?

A. That is supposed to be true.

Q. You stated that the Long Lake Lumber Company did not employ the blacksmith or did not direct Mr. Robinson who to employ as blacksmith?

A. I never heard of it. [876]

Q. Has the Long Lake Lumber Company ever had occasion to obtain blacksmith's material or equipment for the blacksmith shop upon the request of the blacksmith?

A. In any camp which is logging for us, if they ask us to obtain material, and it came through the proper channels, with a proper requisition, we would probably get it for them. I would not know about that at all. I never bought any material for anybody.

Q. Do you know a Larry Doyle, the blacksmith at Caribou? A. Larry Doyle?

(Testimony of James M. Brown, Sr.)

Q. Yes.

A. No; I might know his face if I saw him. I could perhaps remember his face.

Q. That would be in 1939?

A. I might remember his face. It would be either the 1937 or 1938 season, I now understand, when Mr. Doyle worked there?      A. No.

Q. Do you know Mr. Everett Mackey?

A. That name is familiar to me.

Q. Did he at any time produce any logs in Caribou Basin?      A. Well, I don't know that.

Q. He logged from the side where Mr. Morrow had his camp located, prior to the time Mr. Morrow located in that area?

A. I don't know Mr. Morrow, and I didn't know Mr. Morrow had a camp until I heard of it in the courtroom here. I don't know [877] what was termed the Morrow Camp; that is not familiar to me.

Trial Examiner Hektoen: In other words, your answer is "no"?

The Witness: Yes.

Q. (Mr. Walker) Do you know Ira Cave?

A. No.

Q. Now, does it refresh your memory that Mr. Ira Cave and Mr. Everett Mackey entered into an agreement with a Mr. Breen for the logging of that area which has been referred to as the temporary campsite?

A. My heavens, no. I couldn't do it; I wouldn't know enough about it.

Q. Nor that Mr. Mackey nor Mr. Cave were paid

(Testimony of James M. Brown, Sr.)

by the checks issued from the Long Lake Lumber Company?      A. Well, I wouldn't know.

Q. Nor that Mr. Mackey and Mr. Cave had their arrangements terminated by yourself, cancelling their arrangement, in their presence?

A. What were they doing?

Q. Logging?

A. No, that couldn't be; if it were possible, it would only be through Robinson. I don't remember it at all.

Q. Do you know whether or not Mr. Robinson had ever built a dam comparable to the Colburn Creek Dam prior to the time that he constructed that?

A. Mr. Walker, I consulted with many dam builders, and many [878] men, and I decided that Mr. Robinson had the best experience of any man I had conferred with, and that is why I made arrangements for him to build that dam. I would say that I arranged to have him build that dam because I thought that he was the best posted on that kind of work; after discussing that with Harry Brown and H. E. Brown of the H. E. Brown Timber Company, and consulting with other contractors, I decided that Mr. Robinson was the man who should build the dam for that reason.

Q. Had Mr. Robinson ever had experience in building a dam comparable to the Colburn Dam?

A. Yes.

Q. In this territory?



(Testimony of James M. Brown, Sr.)

A. State of Washington; not very far from here.

Q. Had Mr. Robinson completed all logging in Section 11 before the logging began in Caribou?

A. Well, I don't hardly think that he had completed that job over there, yet. In 1936, it seems to me he was running both jobs, but I am not sure.

Q. Had any other log haulers transported their logs over what has been referred to here as the main road other than Mr. Robinson?

A. Other than what?

Q. Other than what has been referred to,—strike that. Other than Mr. Robinson? [879]

A. Yes.

Q. Who?

A. The Winton Lumber Company.

Q. At the Caribou Basin?

A. You are talking about the Caribou?

Q. Yes.

A. Oh, I am talking about the Pack River main road.

Q. Let us get together on this.

A. All right.

Q. The main road which was constructed in 1936 was built leading off of the county road which runs up Pack River?      A. That is right.

Q. Now, does anybody truck logs off of the main road which was constructed in 1936,—anybody else?

A. No; not the new road, no.

Q. Have the logs which have been stored in that dam been shipped out of the dam?



(Testimony of James M. Brown, Sr.)

A. No; they are shipping right now; they are loading there every day.

Q. What was the capacity that was stored in that dam in 1939?

A. Well, it is hard to say, because the dam had not had its trial yet; it was not yet filled.

Q. Would you say that the amount would not exceed three millions?

A. I don't think it would; somewhere less than three million.

Q. Prior to the building of the dam, all logs from Caribou [880] were either immediately shipped out, or else they were decked at either one of the Samuels Landings?      A. Yes.

Q. Subsequent to the building of the dam, all logs which were produced in the year 1939, excepting only the logs which were stored in that dam, were shipped out or were decked at either one of the Samuels Landings?      A. When?

Q. In the 1939 season?

A. No. Some of them were shipped in 1940.

Q. I don't follow you on that.

A. Let us have the question again, then.

Mr. Walker: Will you read that question again, please?

(Thereupon the question referred to was read as follows: "Subsequent to the building of the dam, all logs which were produced in the year 1939, excepting only the logs which were stored in that dam, were shipped out or were decked at either one of the Samuels Landings?")

(Testimony of James M. Brown, Sr.)

Q. (Mr. Walker) The ones which were shipped out in 1940 were logs produced in 1939, and were decked at either one of the Samuels Landings?

A. Yes.

Q. Now, all the logs which were produced during the 1939 season were decked at either one of the landings, or shipped out from either one of the landings, except the logs which were [881] stored in the pond? A. Yes.

Q. And what was done with the logs which were cut from the right-of-way, which has been referred to here as the main road?

A. What was done with them?

Q. Yes.

A. Eventually, they went to the landing.

Q. Was the same thing done with the logs which were cut from either the temporary campsite or the main campsite?

A. I hope so; that is where they should go.

Q. Mr. Brown, this morning I asked you if there was a written arrangement between the Bonner County National Bank and the Long Lake Lumber Company relative to a chattel mortgage of March 21, 1939? A. Yes.

Q. Was there an oral arrangement?

A. I told you "no"; I said "yes" just now to your question.

Q. Was there an oral arrangement between the Bonner County National Bank and the Long Lake Lumber Company?

(Testimony of James M. Brown, Sr.)

A. No. He has got a better contract than if he had a contract.

Q. The answer is there was no written arrangement?  
A. Yes.

Q. There was no oral arrangement?

A. That is right. Mr. VonCanon was in the room here to testify. [882]

Q. Mr. Brown, do you recall that one of the four trips you made to the camp in the year 1939 season was just prior to the time that the camp shut down at the end of the 1939 season?

A. I don't remember; I am quite sure that it was not.

Q. Do you remember the incident of the camp shutting down at the conclusion of the 1939 season?

A. State that question over again. I think that I am getting ahead of myself.

Mr. Walker: Will you read that question, please? Not the last question, but the question before that, if you will.

(Thereupon the question referred to was read as follows:

“Mr. Brown, do you recall that one of the four trips you made to the camp in the year 1939 season was just prior to the time that the camp shut down at the end of the 1939 season?”)

A. It might be; I don't know. It could be.

Q. Do you recall whether or not at that time there was any instruction given from you to Mr. Robinson relative to the shutting down of the camp?

(Testimony of James M. Brown, Sr.)

A. Well, nothing about shutting down the camp, but I remember telling him at one time that the Humbird Lumber Company was raising ned with us because he had too many logs cut ahead. I don't remember just when it was, but it was prior to shutting down.

Q. What do you mean? It was prior to shutting down? [883]

A. Yes. He had too many logs cut and decked in the woods.

Q. Too many logs in the woods?

A. Too many logs cut; too many trees severed.

Q. When you say "decked", do you mean decked in the woods?

A. Too many cut in the woods, ahead.

Q. How could that be, that the cutting would be too far ahead?

A. Well, they probably had too many saws on; it happens frequently in the woods; that has to be controlled according to the trucking. In other words, if he had so many million feet cut and decked in the woods, and he was trucking with good production, and all of a sudden a storm came and shut the trucking down, he would have too many ahead to satisfy the Humbird Lumber Company; that creates a fire hazard the next spring. They were very rigid about that.

Q. I don't quite follow that.

In the first part of the season, what is the first type of workman that goes out?

A. The pole cutters.

(Testimony of James M. Brown, Sr.)

Q. Then what follows?

A. Let us get a particular season; they are all different.

Q. I don't see why they are different.

A. They are all different. They can't be the same.

Q. The logs, before they would be loaded at the landings, they would have to be sawed?

A. Yes. [884]

Q. Wouldn't the first ones going into the woods be the sawyers?

A. No. If we had too many sawed ahead, they would be the last ones out.

Q. How would you go about it the first time that you were going to go in and cut out a stand of timber?

A. I would put the saws out.

Q. The next?

A. I would put the skidders out.

Q. And then who?

A. The trucks, as far as I could.

Q. Then what do you do?

A. Haul the logs out as fast as they are cut, if possible; however, we cannot haul them out as fast as they are cut, but as fast as we can. You can't possibly haul as fast as they are cut.

Q. How does it happen that at the conclusion of the season you would have logs down which have not been trucked?

A. I thought I explained that for you before. Let us get one season. I can explain one season. I

(Testimony of James M. Brown, Sr.)

Redirect Examination

Q. (Mr. Potts) Mr. Brown, did you buy any trucks for Mr. Robinson during the course of his logging operations in Caribou?

A. I never bought a truck for Mr. Robinson in my life.

Q. Did you pay for any trucks purchased by him, so far as you are personally concerned, on behalf of the Long Lake Lumber Company?

A. I never personally paid for them.

Q. There is one thing I want to clear up: I am not quite sure that we all understand it. That is in connection with the question as to all logs produced in the Caribou operation in 1939 being decked or hauled to the landings, or placed at the storage at the Colburn Creek Dam. Were all logs that were actually cut and lying on the ground, or decked in the woods, hauled away from the woods at the end of the 1939 season?      A. No.

Q. Then you don't consider them produced until they are further developed?

A. Until the contractor has fulfilled his contract, in this case being Mr. Robinson, having put them on the cars. There were too many there.

Q. Well, in the spring of 1939, do you happen to know how many had been carried over, lying in the woods, or decked on the skidways? [888]

A. I don't remember; there were a number of them, and I know Mr. Pearson could tell me in a minute.

Q. Mr. Pearson?      A. Yes.

(Testimony of James M. Brown, Sr.)

Q. Who is Mr. Pearson?

A. Of the Humbird Lumber Company; I know he was wild about it.

Mr. Potts: That is all.

Recross Examination

Q. (Mr. Walker) What do you mean that you personally had never paid for any truck? That you, as an individual or as an officer of the Long Lake Company had never paid for any truck for Mr. Robison? A. Either one.

Q. Do you know whether or not the Long Lake Lumber Company had ever arranged for the taking of delivery of trucks for Mr. Robinson?

A. You mean for us to take delivery?

Q. Entered into or made financial arrangements whereby it was made possible for Mr. Robinson to take delivery on trucks?

A. No, I don't know; it could happen without me knowing anything about it.

Mr. Walker: That is all.

Redirect Examination

Q. (Mr. Potts) The Long Lake Lumber Company has assisted Mr. [889] Robinson in financing the purchase of some trucks or tractors?

A. We have, tractors; I don't remember the trucks; we have, equipment, yes.

Q. But Mr. Robinson made the purchase?

A. Yes.

Mr. Potts: That is all.

Trial Examiner Hektoen: You are excused. [890]



(Testimony of Frank D. Robinson.)

Q. You said it has been continuous, did you, during the last 15 years? A. Yes.

Q. But your first contract for that company in Bonner County was at Sand Point? A. Yes.

Q. Is that what is generally known as the Section 11 job? A. Yes.

Q. What year was that?

A. About 1933 or 1934; somewhere around there.

[902]

Q. Well, did you leave there in 1935?

A. Yes.

Q. You wound up the job in 1936? A. Yes.

Q. Since 1935 or 1936, where have you been logging? A. Caribou Basin.

Q. That is the Caribou Basin we have been discussing for a week? A. Yes.

Q. What did you first do when you went to Caribou Basin?

A. I put the roads and camps in Caribou Basin.

Q. In speaking of the roads, what roads?

A. The roads from Caribou to,—from Samuels clear to the Canyon on Caribou.

Q. What about the camps? What camps?

A. The temporary camp and the main camp at Caribou Basin.

Q. Speaking of the main camp, what kind of a camp is it?

A. That is a camp for loggers holding about 125 to 150 men.

Q. State whether or not that camp was built to

(Testimony of Frank D. Robinson.)

serve all the loggers who logged the timber in Caribou Basin?      A. Yes.

Q. It also served a number of men who logged a part of the Hell Roaring Creek Basin?

A. Yes.

Q. Who owns the road to the camp that you referred to?

A. The Long Lake Lumber Company. [903]

Q. Who built it?

A. The Long Lake Lumber Company.

Q. Who paid for it?

A. I built it, but the Long Lake Lumber Company paid me; they reimbursed me.

Q. The Long Lake Lumber Company paid you for building the road and building the camp?

A. Yes.

Q. Relative to the side roads that cut into the main roads,—      A. I did.

Q. Who paid for them?      A. I did.

Q. All but the main roads are your obligation to construct for the purpose of getting out the timber surrounding?      A. Yes.

Q. Those roads are not permanent, are they?

A. No.

Q. Merely used for the purpose of getting in there to get the timber out?      A. Yes.

Q. Were you in the court room yesterday when a contract was identified by Mr. James Brown, Sr. as being the contract between the Long Lake Lumber Company and yourself?      A. Yes.

Q. You are familiar with that contract? [904]

(Testimony of Frank D. Robinson.)

A. Yes.

Q. And is that the contract that you have with the Long Lake Lumber Company? A. Yes.

Q. And signed by you? A. Yes.

Q. Now, in pursuance of that contract, have you logged in the Caribou Basin, and were you logging under that contract in the year 1939?

A. Yes.

Q. State briefly what work you do in logging that timber?

A. Well, starting from the stump, I cut it, skid it, load it, truck it, and load it onto the cars.

Q. In other words, the entire operation is your job? A. Yes.

Q. From building the roads, cutting the timber, and hauling it to the landing and placing the timber upon the cars? A. Yes.

Q. Who pays the Unemployment Compensation for your men? A. I do.

Q. Who pays for the Industrial Insurance or the accident insurance for your employes?

A. I do.

Q. Who pays the Social Security Taxes upon these men? A. I do. [905]

Q. Do you have a hospital contract for the protection of your men in the case of illness or injury?

A. Yes.

Q. What hospital serves your men?

A. Dr. Werelius's Hospital.

Q. He practices medicine in Sand Point?

A. Yes.

(Testimony of Frank D. Robinson.)

Q. And he has a hospital that is known as the Community Hospital?      A. Yes.

Q. Was it formerly known as the Page Hospital?  
A. Yes.

Q. All those bills you pay?      A. Yes.

Q. Does the Long Lake Lumber Company pay any of them?      A. No.

Q. Now, have you on occasion since you have been in the Caribou Basin done incidental jobs for the Long Lake Lumber Company other than your logging?  
A. Yes.

Q. I will ask you this: did you construct a dam for them at Colburn?      A. Yes.

Q. The dam and flowage was for the purpose of landing logs therein? [906]      A. Yes.

Q. In constructing that dam and flowage, did you have occasion to use some of your equipment?

A. Yes.

Q. Were you paid for the use of your machinery?

A. Yes.

Q. By whom?

A. The Long Lake Lumber Company.

Q. Mr. Robinson, in logging, is it customary to take out the White Pine, and the mixed, and the cedar logs, at the same time?      A. No.

Q. What is the usual logging practice, so far as getting out cedar logs and cedar piling is concerned?

A. The White Pine, and then your mixed, and then your cedar.

Q. Why do you get the White Pine out first?

A. The cedar would smash up the pine, and would

(Testimony of Frank D. Robinson.)

cause a lot of brush. Therefore, we take the pine first, and then follow with the cedar operation.

Q. I will ask you this: would it make a mess if you took the cedar out first, on account of the branches?

A. Yes, and it would create a fire hazard.

Q. So it is customary to take out the cedar first?

A. Always,——

Q. I beg your pardon. You take out the White Pine first?           A. Yes, the White Pine first.

[907]

Q. In other words, you don't monkey with the cedar until the White Pine has been removed?

A. No.

Q. In the spring of 1939, did you manufacture or log a bunch of cedar?

A. Yes, I logged all the cedar up to the white pine, 5000 poles.

Q. Now, let us get that straight. You removed the cedar from all the territory in your operation from which the White Pine had previously been removed?           A. Yes.

Q. Would it be correct to say that you cleaned up your cedar job?           A. Yes.

Q. Now, is it customary to log cedar poles the entire year, or is it preferable to get them out in the spring?           A. In the spring.

Q. Would it make any difference in the peeling of the cedar poles?

A. Well, they peel better in the summertime; the sap is up.

(Testimony of Frank D. Robinson.)

Q. In taking out the poles, state whether or not they remove the bark?

A. They manufacture the pole right there in the woods.

Q. They take the bark off right there?

A. Yes. [908]

Q. Do you know how many poles you had in the spring of 1939 in the woods, approximately?

A. 5,000.

Q. Did you have any intention during the year 1939 to make any cedar poles in your operations after the 5th of June?      A. No.

Q. Now, how many million feet of white pine did you have on the ground on or about the 5th of June, 1939?      A. About 3,000,000.

Q. What is the practice relative to falling timber ahead of the truckers? By that, I mean, what quantities?

A. Well, I generally,—ordinarily, around 2 million feet; a million and a half ahead of the trucks.

Q. Let me ask you this: in June, did you and all other logging contractors cut great quantities of timber before you started trucking it out?

A. Not a great deal.

Q. Why not?

A. Because it deteriorates; it spoils, turns blue.

Q. First of all, it deteriorates?      A. Yes.

Q. It turns blue?      A. Yes.

Q. Please state what you mean when you say that it turns blue? [909]

A. When it turns blue, it is not good for lumber.

(Testimony of Frank D. Robinson.)

Q. The blue stains the wood, is that it?

A. That is right.

Q. And that blue only concerns the sapwood?

A. It is all right, except that it turns blue.

Q. And when it turns blue, it loses its value?

A. Yes.

Q. Does it have any other effect upon the lumber?

A. It makes poor lumber, and they don't get the price for it.

Q. If people see White Pine lumber that is blue,——

A. (Interposing) They don't want it.

Q. It is No. 4 lumber?           A. Yes.

Q. There is not a good price for No. 4 lumber?

A. No.

Q. If it was not for the fact that the lumber is blue, it would be No. 1?           A. Yes, very likely.

Q. In addition to deteriorating, and becoming blue, what else?

A. Well, if they lay over June or July, and it becomes warm, the wood gets holes in it; the bugs get into it.

Q. The bugs get into it?           A. Yes. [910]

Q. What does the bug do when it gets into the logs?           A. He bores it full of holes.

Q. And when that log is manufactured into lumber, what becomes of the lumber?

A. The lumber is full of holes.

Q. What kind of lumber is it?

A. No. 4 lumber.

Q. And do these logs check?           A. Yes.



(Testimony of Frank D. Robinson.)

Q. What do you mean by checking?

A. When it gets hot, they start checking; the butts open and crack; the ends crack.

Q. They crack? A. Yes.

Q. What is the result of the checking?

A. Well, that checks quite a distance into the end, and if they cannot trim it, they have to cut it back, maybe 16 inches or two feet.

Q. The checking is primarily at the end of the log? A. Yes.

Q. In cutting the log, you like to have a little trim? A. Yes.

Q. If it checks a little bit, it means that you have to cut off two feet? A. Yes. [911]

Q. What are the usual lengths of logs?

A. 16 feet is the usual length of the board.

Q. And if they can't make it 16 feet, they make it 14 feet? A. Yes.

Q. If it is checked there, they have to cut it down to 12 feet? A. Yes.

Q. Are there any other bad disadvantages in leaving lumber or timber or logs in the woods?

A. Fire.

Q. What about the fire hazard if the timber lays there?

A. If the timber lays there, the fire will burn it up, if it gets a burn; it is a fire hazard there. It adds just that much to the fire hazard.

Q. Is it practical to burn brush while you have logs on skidways; or when you have the skidways full of logs? A. No.

(Testimony of Frank D. Robinson.)

Q. In other words, it is not the practice to burn brush until the end of the logging season; until all of the logs have been removed and taken away?

A. Yes, that is right.

Q. Now, state whether or not white pine timber has a good many branches, and there is a lot of brush left after the logging? A. Yes.

Q. What kind of leaves or needles does white pine have?

A. Well, they are pretty dry in two or three weeks after [912] they have been cut.

Q. They call those needles? A. Yes.

Q. Are they very inflammable, and will take make a good fire?

A. Yes, they certainly will.

Q. Will they burn up in a hurry after they have been cut? A. Yes.

Q. The same with the branches? A. Yes.

Q. In other words, a fire in the woods is a menace every logger has to deal with when he logs?

A. Yes.

Q. And probably there is nothing the logger fears more than the possibility of a fire?

A. That is true.

Q. Now, what is the general practice in an effort to guard against fire?

A. What do you mean?

Q. What has been done by yourself and others in endeavoring to eliminate the fire hazard?

A. You have to build fire trails, and the roads you put in, you have to have built with that in mind;

(Testimony of Frank D. Robinson.)

you have to have fire equipment in your camp; you have to have a fire pump; you have to have a fire hose; just the same as the State requires you to have in the camp. [913]

Q. What does the State do relative to protecting against fire in the summertime?

A. They have fire trail lookouts.

Q. And do they have men that go to the camps?

A. There is a man in camp all the time employed by the Protective Association.

Q. A patrolman? A. Yes.

Q. Smoke chasers, they call them?

A. Yes, smoke chasers.

Q. Who owns the real estate, or the land upon which you are logging?

A. The Humbird Lumber Company, I think, owns the land.

Q. And they own the standing timber until it is cut? A. Yes.

Q. Did the Humbird Lumber Company in the year 1939 have any men in your camp checking up on fire? A. Yes.

Q. And did these men check up on any other thing? A. Yes, on logs, fire and brush.

Q. Why did they check up?

A. That was their job; Mr. Dunn was there quite a bit.

Q. Who is Mr. Dunn?

A. He is a cruiser for the Humbird Lumber Company.

(Testimony of Frank D. Robinson.)

Q. What did Mr. Dunn do in checking your sawyers? [914]

A. He watched the stumps.

Q. What do you mean by watching the stumps?

A. The stumps are supposed to be cut 14 inches.

Q. From the ground?

A. From the upper side; if you saw the stump off at two feet, you would lose just that much timber; he would measure the logs, also, for lengths.

Q. You spoke of the 16-foot log? A. Yes.

Q. How much overage does the sawyer cut the log in order that they might get 16-foot length lumber out of the log? A. 5 inches maximum.

Q. 5 inches over? A. That is the limit.

Q. What is the result if they cut the stump too high?

A. They would just be not living up to the contract.

Q. That is true. Let me put it this way: are you wasting that much timber?

A. That is right.

Q. If the stump is cut too high, that will just be that much waste? A. That is right.

Q. Did the Humbird Lumber Company watch you? A. Yes, Mr. Dunn did.

Q. If they were not cut right, what did the Humbird Lumber [915] Company do?

A. They told me to cut it right, or get rid of the sawyer; they would tell me to get rid of the sawyers.

Q. Do you know a man by the name of Ole Pearson? A. Yes.

(Testimony of Frank D. Robinson.)

Q. Who is he?

A. He handles the Humbird Lumber Company holdings.

Q. He is acting here as superintendent of the Humbird Lumber Company?

A. I think so.

Q. Did Mr. Pearson ever have occasion to go into your operations?

A. Yes, many times, to check it over, with Mr. Dunn.

Q. What for?

A. To look over the operations and see that the contract was lived up to. When we cut down a tree, you sometimes have to long-butt it for rot.

Q. Why do you long-butt a log?

A. To get away from the rot.

Q. And why do you do that?

A. Well, if the rot is in the log, it has to be cut out. If the quality of the timber is not right in the butt, we have to cut it off. If it is  $33\frac{1}{3}$  per cent. sound, we take it; if it is rotted off, we cut it to where it is sound. Sometimes if the sawyers don't know their business, they will cut it [916] 30 feet up when they only should have cut it 16.

Q. Mr. Pearson wanted every log that had  $33\frac{1}{3}$  per cent. lumber in the log?      A. Yes.

Q. Do loggers differ sometimes on how much good lumber there is in a log?      A. Many times.

Q. I will ask you whether or not you had any conversation with Mr. Pearson relative to cutting timber too far ahead of the truckers?      A. Yes.

(Testimony of Frank D. Robinson.)

Q. What did he tell you?

A. He made me take my saws off; plenty of times he did that in 1938 or 1939.

Q. Did he ever tell you you had too many logs down, or too many on skids?

A. Yes, too many cut ahead.

Q. If Mr. Pearson complained regarding having too much timber down, it was incumbent upon you to slow up the sawyers until you got the timber out of the way?      A. Yes.

Q. Now, Mr. Robinson, there has been more or less testimony in the past week relative to a certain conversation which you had particularly with an individual by the name of Herbert Johnson, and another man by the name of Leon Wise. Now, on or [917] about the 6th day of June, at your camp, in your office, it was alleged by Mr. Wise that he stated to you,—that you stated to him that if this camp was organized you would shut her down. Did you hear that testimony?      A. No.

Q. Did such a statement ever come through you to Mr. Wise?      A. No.

Q. At that time, or at any other time?

A. No.

Q. Mr. Wise stated that on one occasion you lectured him?

A. I did not. I never lectured Mr. Wise in my life.

Q. He said you called him a sucker?

A. I didn't.

(Testimony of Frank D. Robinson.)

Q. Mr. Wise further testified at considerable length relative to a conversation in your office at the camp on or about the same date, in which you were alleged to have invited him into the office, and that you, Arden Davis, and Mr. Wise, went into your office, and that you then locked the door and put the key to the door in your pocket. Did you do that?

A. I did not. We had no lock on that door on the inside.

Q. What kind of a lock is on the door?

A. There is a Yale lock on the outside.

Q. What did you have on the inside?

A. Just a catch on the inside.

Q. State whether or not you put the key in your pocket? [918]

A. No.

Q. You did not threaten Mr. Wise at that time, did you?

A. No, sir.

Q. At that time or place, or at any place other than that at the camp, on or about the same date, did you tell Mr. Wise that you would not permit the union men to hold a meeting in your camp?

A. No.

Q. What did you tell them?

A. I told them to go ahead and hold the meeting.

Q. And did they hold the meeting?

A. Yes.

Q. Mr. Wise made the statement that on or about the same time Mr. Brown's father,—meaning Jim Brown's father,—owned "all of this stuff here". Did you make such a statement?

A. No, I never made any such statement.



(Testimony of Frank D. Robinson.)

Q. Did you ever tell Mr. Wise, or any of the other employes up there that that was a Long Lake Lumber Company Camp, and that you had to do what the officials of the Long Lake Lumber Company told you to do?      A. No.

Q. Did any of the officials of the Long Lake Lumber Company tell you to shut that camp down last June?      A. No.

Q. Now, there has been testimony by Mr. Wise and one other [919] that you met a camp committee in your office the evening that they held their meeting. Did you?      A. Yes.

Q. State whether or not at that time you told Mr. Wise, Mr. Johnson or any other person, that you would recognize this committee as the bargaining committee for the men, and that you would recognize Local 119 of the IWA?      A. No.

Q. Did you tell them before or at any other time, at any place, that you had recognized their union?

A. No.

Trial Examiner Hektoen: Will you read the last two questions and answers, please, Mr. Reporter?

(Thereupon, the last two questions and answers were read aloud by the reporter as above recorded.)

Trial Examiner Hektoen: This has reference to the union meeting?

Mr. Hunt: At any time.

Q. (Mr. Hunt) Did you at this time discuss with these men camp conditions?      A. Yes.

(Testimony of Frank D. Robinson.)

Q. Did the men complain about the lack of a bull cook?

A. Not at that time. Mr. Johnson——

Q. Was it at these meetings,—any of these meetings, that the complaint was made that you didn't have a bull cook? [920]

A. Yes.

Q. What did they say?

A. They said they wanted me to put a bull cook in.

Q. What did you tell them?

A. I told them that I had a bull cook.

Q. Did they complain about a lack of sheets?

A. They said they wanted clean sheets; they said they wanted clean sheets every two weeks. They had worked for me for two years, and they knew that if they wanted them changed before that time, they could come up to the office and get them, and I told them so.

Q. What did they say about the electric light being put on?

A. I said they always had electric lights before that. I told them that just as soon as we could get them fixed, they would be fixed.

Q. What was said about a leaky roof?

A. Johnson said something about that, and I told them that I had plenty of buildings there, and that there was plenty of bunkhouse room and good bunks without having the men sleep in a bunkhouse where the roof was leaking; that would be fixed, but they didn't have to sleep where the roof was leaking.

Q. Was anything said about the showers?

(Testimony of Frank D. Robinson.)

A. Yes, that they wanted the shower baths turned on. I said that they had froze up,—and the practice I had was always to cut off the showers after the season. But, they had frozen up, and we were going to fix them, and as soon as we could fix them, [921] they would be turned on. They had had the showers for the two years before.

Q. Have you always been willing to talk with your men relative to camp conditions?

A. Yes.

Q. And do your men come up and talk with you at any time that you are around? Has that been customary?

A. Yes, any time they want to.

Q. As a rule, are you at the job when you are operating?

A. Yes.

Q. Have you ever been away from the job for any particularly unusual time?

A. Not over two or three days at the most at any time.

Q. Does any man have to get permission to talk with you about the work?

A. No.

Q. If they wanted to talk with you, they can come right up and talk with you?

A. They can come up and talk with me at any time, yes.

Q. Are your logging operations classed as seasonal?

A. Yes.

Q. When would you ordinarily start your work in the spring?

A. It all depends on the weather.

Q. When do you usually start?

(Testimony of Frank D. Robinson.)

A. Along in April or May, for poles. And then in June or July on logs. [922]

Q. About when are your operations at the peak?

A. Along the last of July or the first of August.

Q. And they usually close down when?

A. In November.

Q. What closes you down in the fall?

A. The weather,—rain.

Q. You start up somewhat gradually, putting out first the cedarmakers?           A. That is right.

Q. And then you put out the skidders?

A. Yes.

Q. They usually come to work before the truck haulers?

A. Oh, yes; a couple of months, sometimes.

Q. On the 5th day of June, state whether or not your camp was fully organized and going?

A. No.

Q. In other words, it was just getting started?

A. I was just finishing up on my poles; I had them all cut and skidded.

Q. Now, did you let an entire jammer crew go about the 5th of June, 1939?

A. I think I laid off a jammer crew; the jammer was broken down, and I laid the crew off until it was repaired.

Q. The jammer was broken down?

A. Yes. [923]

Q. What was it doing then?

A. Cleaning up logs.

(Testimony of Frank D. Robinson.)

Q. Loading a little? A. Attempting to.

Q. The jammer broke down? A. Yes.

Q. Then what happened?

A. We had to have it repaired.

Q. What did the boys do with it when it broke down? A. They put it in the shop.

Q. What did you do with the men?

A. I laid them off.

Q. Why?

A. Because the jammer was broken down; there was nothing for them to do.

Q. Did you tell these men when work resumed and things got fixed up, they would come back to work?

A. I think I did tell them that when they got going; they could come back.

Q. Did these men later on come back to you?

A. They all went back.

Q. But not running that jammer, is that right?

A. No.

Q. Did you have an individual by the name of Clyde Smith working on the jammer, on that jammer? [924] A. Not on that jammer, no.

Q. He was working on some other jammer?

A. No, not that year; not in 1939.

Q. What was the name of the man that you told could not work on one of the jammers, because he was not competent?

A. That was Clyde Smith.

Q. Clyde Smith asked you later to work on the jammer? A. Yes.

(Testimony of Frank D. Robinson.)

Q. Did he go to work on the jammer?

A. No.

Q. Why not?

A. Because I told him that I didn't think he was capable of working on it.

Q. Was he capable of working on it?

A. No.

Q. About when did you start replacing your horses with power equipment?      A. In 1938.

Q. I mean, power equipment?      A. In 1938.

Q. You didn't have any arguments over labor unions in 1938, or labor conditions?      A. No.

Q. You disposed of your horses in 1938?

A. Some of them, yes. [925]

Q. And you continued that, and have continued up to this date, that as fast as you replaced the horses, you put in power equipment? You have done that as fast as feasible?      A. Yes.

Q. What power equipment did you get in 1938?

A. I got one of these cat skidders from Stacel.

Q. You were replacing certain skidders with what you call cat skidders?      A. Yes.

Q. What kind of skidders did you have before? Before that you had an old truck chassis upon which was built a jammer?      A. Yes.

Q. And the jammer was powered by another gasoline engine?      A. Yes.

Q. Other than the engine which propelled the vehicle?

A. You could make them different ways; you



(Testimony of Frank D. Robinson.)

could make the power take off from the motor on the truck; I had one like that.

Q. What other equipment, if any, did you buy that would have a tendency to replace the horses in 1938? A. Just the skidders, is all.

Q. How many skidders did you have?

A. In 1938, I think I had two.

Q. You think that you bought two new ones in 1938? A. Yes.

Q. How many,—were they new or second-hand? How many did you [926] get in 1939? A. One.

Q. One? A. That is right.

Q. Now, these new power skidders, are they more complicated or technical than the old skidders?

A. Yes.

Q. Why? A. They have double drums.

Q. All right; the old skidder had a single drum?

A. Yes. [927]

Q. (Mr. Hunt, continuing) Mr. Robinson, prior to recess you made a statement relative to new powered equipment which you bought in 1938 and 1939. Do you want to correct that statement?

A. Yes.

Q. All right.

A. These two new jammers, I bought them in 1939. I had just one in 1938, a Cletrack.

Q. You bought a new Cletrack in 1938?

A. It was a used one, and I rebuilt,—I built the jammer.

Q. You built the jammer on the Cletrack tractor?

A. Yes.



(Testimony of Frank D. Robinson.)

Q. In 1939, you bought two new ones?

A. Yes.

Q. Mr. Robinson, state whether or not on or about Thursday, June 29, you had a meeting at your office in the J & L Building, Sandpoint, Idaho, at which time you were present, Arden Davis, myself, Mr. Roll, Mr. Johnson, and three members of the so-called Camp Committee; do you recall that?

A. Yes.

Q. Now, what was said and done relative to holding an election by your employes at that time?

A. It was agreed that they would hold an election in the camp; I think it was agreed it would be held on the 6th of [931] July.

Q. Was such an agreement consummated at that time?      A. Yes.

Q. Do you remember the discussions as to when that election should be held?

A. The 6th of July.

Q. That is what you arrived at. Did you suggest any other date?

A. I am not sure whether I did.

Q. Well, was there any difference of opinion relative to the 6th?      A. Yes.

Q. What was that difference of opinion? Well, let us go back; when did you propose to open your camp after the 4th of July?

A. On the 6th of July.

Q. What did you tell the men relative to the advisability of holding an election on the 6th?

(Testimony of Frank D. Robinson.)

A. It was agreed upon that we were to hold an election on the 6th, I think it was; we agreed to hold an election,—let's see,—I want to get that straight. What is the question?

Mr. Hunt: Will you read the question, please?

(Thereupon the last question was read aloud as above recorded.)

A. I told them that we would hold an election. [932]

Q. (Mr. Hunt) Let me put it this way: Did you first ask them to hold the election on or about the 8th or 9th? A. Yes.

Q. Why?

A. The men were scattered all over, and I thought that that would be the best time to get the men in, about the 8th, 9th or 10th.

Q. And did the men want the election on the 6th? A. Yes.

Q. And did you agree to that? A. Yes.

Q. When was the election to be held?

A. The 6th.

Q. I mean, where was the election to be held?

A. In the camp.

Q. And where else? A. And in town.

Q. Why did you have two different places, Mr. Robinson?

A. Because some of the men were in town, and some of them were in camp.

Q. Well, after we entered into that agreement, what took place?

(Testimony of Frank D. Robinson.)

A. Well, you and Mr. Roll left the office to go down to try to draw up this agreement, and later we,——

Q. What did you and Davis and Johnson and the committee [933] do?

A. It was agreed upon that we were to have this meeting.

Q. After Mr. Roll and I left, what did Arden Davis, Johnson and the Committee do in your office?

A. I don't remember what they were talking about then.

Q. Did they check the payroll?

A. They may have checked the payroll.

Q. Did Mr. Davis have the payroll at that time?

A. I think he did.

Q. After that, did you come to my office?  
Shortly after that?           A. Yes.

Q. Was Mr. Johnson there?

A. I think Mr. Johnson was either there or he came in shortly after that.

Q. All right. What was said by Mr. Johnson?

A. Well, Mr. Johnson came in, and then, when you were drawing up the agreement, Mr. Johnson said it was all off.

Q. Was an election ever held after that?

A. No.

Q. Did the Camp Committee or Mr. Herbert Johnson after that date ever come to you and tell you that the 6th of July was O.K. to hold an election?  
A. No, they never did.

(Testimony of Frank D. Robinson.)

Q. Now, Mr. Robinson, there has been more or less discussion relative to an alleged picket line on the highway between your [934] camp and Pack River. Did you ever come up at any time when the picket line was there with a group of men whom you were taking to your camp for the purpose of working at the camp? A. Yes.

Q. Did you meet Mr. Johnson there at that time? A. Yes, I met Mr. Johnson there.

Q. What conversation did you have with Mr. Johnson?

A. That is when Mr. Rapp was there.

Q. What conversation did you have there at the picket line with Mr. Herbert Johnson?

A. Well, Mr. Johnson and I were talking, and I said, "Well, do you want to go to work? If you men want to go to work, all right."

I remember Johnson said, "These men are not going to work until you recognize the union."

I said, "Whenever you show me that you have a majority, Johnson, I am willing to recognize you."

And he said, "Yes, you made the statement that you broke one union and that you were going to break this one." Then I told Johnson, "You are a damned liar; I never made such a statement as that."

I told him that I was born and raised within 150 miles of this town, and if he wanted to check back for 25 years, he would find there was never a mark

(Testimony of Frank D. Robinson.)

where I had had any labor trouble with any man, or any bunch of men. [935]

Q. What did Johnson say as to that?

A. He never said a word.

Q. Was Mr. Rapp there at that time?

A. Yes.

Q. State whether or not you ever told Mr. Rapp that you would not recognize the union?

A. No.

Q. Did you ask Mr. Rapp at any time to open the highway so the men could go through?

A. Yes. [936]

Q. (Mr. Hunt) Did Mr. Rapp open the road?

A. No.

Q. Later on, did you take some men up there when the picket line was there? A. Yes. [937]

Q. State whether or not on or about the 14th day of July you took some men through the picket line? A. Yes.

Q. Were there any officers there at that time?

A. I think that Mr. Webb and Mr. O'Donnell were there at that time.

Q. And the men went through?

A. The men went through.

Q. Did Mr. Herbert Johnson at any time at the picket line tell you that no man would go through to your camp until you recognized the union?

A. Yes.

Mr. Walker: I will object to that as leading.

Trial Examiner Hektoen: The question has already been answered before. He testified that John-

(Testimony of Frank D. Robinson.)

son said that no one was going to go through before the union was recognized.

Did this apply to the same conversation?

The Witness: Yes.

Q. (Mr. Hunt) State whether or not Leon Wise ever made the same statement to you at any time at the picket line? A. Yes.

Q. State whether or not you ever told Clyde Smith that if your [939] camp was organized, you would put on more cat jammers and run two shifts?

A. No, I don't think that I made that statement. [940]

Q. What kind of jammers are those jammers at the landings we have had testimony concerning?

A. Steam loading jammers.

Q. They are steam powered? A. Yes.

Q. Do they use those steam jammers in the woods? A. No.

Q. Why? A. Fire.

Q. They have a tendency to burn everything up?

A. Yes. [949]

Q. Mr. Robinson, in your dealings with the Long Lake Lumber Company, is it customary for that company to make a remittance upon any regularly designated date during the week or month?

A. No.

Q. How do you get money from the Long Lake Lumber Company?

A. We always call them up and tell them, "I need so much", and they make arrangements with

(Testimony of Frank D. Robinson.)

the bank, or send it up by letter, and we deposit it with the bank.

Q. Is it customary when you need money to make a requisition upon the Long Lake Lumber Company for it?      A. Yes.

Q. If you didn't ask them for any money, they wouldn't send you any?      A. No.

Q. Mr. Robinson, I take it that you know what the weather conditions were in the spring of 1939?

A. Yes.

Q. State generally whether the months of April or May were [952] wet or dry months; wetter than usual, or drier than usual?

A. Weather in May and June was wet, and in April it was drier than it had been before. In June it was awful wet, and in May, it was wet.

Q. Let us get down specifically to the first week in May of 1939.      A. The first week in May?

Q. The first week in June, 1939, did it rain? Did it rain on the 4th of June?      A. Yes.

Q. Did it rain on the 5th day of June?

A. Yes.

Q. Did it rain on the 6th day of June?

A. Yes.

Q. State whether or not you were able to truck logs on those days that I have mentioned?

A. No. [953]

Q. (Mr. Hunt) Mr. Robinson, state whether or not the roads at your operations in the Caribou Basin had dried out and had become solid or packed by the first week in June, 1939?      A. No.



(Testimony of Frank D. Robinson.)

Q. What were the conditions?

A. It rained, and the roads were so soft and muddy that we could not truck.

Q. Did you have a heavy rain on or about that time?

A. On June 7, it was raining awful hard, and on June 6.

Q. What was the effect on the roads and culverts?

A. It washed out the roads and filled the culverts with dirt, and softened the roads so that it was impossible to carry on.

Q. What would happen if a loaded truck would attempt to go over the road? [954]

A. They would just bury themselves, sink down, or tip over.

Q. And if a truck went through, what would be the condition of the road after it got through?

A. It would be in such shape that it would take a long time to fix it up again.

Q. For the next truck?

A. For the next truck.

Q. Could you have operated economically, or in accordance with your usual operations at that time?

A. No.

Q. Have you testified heretofore relative to the amount of logs that were on skids in the woods in June,—June 6?      A. Yes.

Q. Well, let us make sure. How many poles did you have?      A. 5,000.

Q. Five thousand where?

(Testimony of Frank D. Robinson.)

A. Five thousand cut and skidded.

Q. How many logs were down in the woods and cut?

A. About 3,000,000 feet; close to that.

Mr. Hunt: That is all.

Trial Examiner Hektoen: Any examination, Mr. Potts?

Mr. Potts: No.

#### Cross Examination

Q. (Mr. Walker) Prior to June 7, Mr. Robinson, you hauled out truckloads of logs, did you not? You had hauled out some [955] truckloads prior to that, had you not? A. Yes.

Q. The Caribou Basin did operate in the season of 1937, did it not? A. I think so, yes.

Q. Do you recall how the weather conditions were in 1937?

A. No, I couldn't tell you now.

Q. Did you close down at any time from the beginning of the season until the end of the season in 1937 because of weather conditions?

A. I would not say, but I think there were times when the trucks could not haul in that time.

Q. But you did not lay off the fallers and buckers, did you?

A. Yes, I laid them off in the fall before I got through.

Q. Just a moment. At any time in the 1937 season, did you lay off the fallers and buckers because of weather conditions?

(Testimony of Frank D. Robinson.)

A. Well, now, I couldn't answer that; I don't know; that is so far away I couldn't tell you there.

Q. At any time during the 1937 season, did you lay off the fallers and buckers when the trucks were not operating because of weather conditions?

A. Yes. I laid them off, and put some on. I have done that during every season. And when I have got too many logs cut ahead, I would have to lay them off.

Q. At that time, in 1937, what was the situation? What was the situation at any time during 1937? Did you lay off the [956] buckers and fallers because of weather conditions?

A. Well, now, I couldn't tell you.

Mr. Hunt: Just a minute. I will object to that question, for the reason that he explained that he laid them off on account of weather conditions. I will have to use the same objection that counsel used, on the ground that it is a compound question. If he means that he laid off the sawyers and buckers on account of weather conditions affecting their work in the woods, that is one thing; if he lays off the sawyers and buckers on account of too much timber, that is another.

Trial Examiner Hektoen: Will you read the question?

(Thereupon the last question was read aloud as above recorded.)

Mr. Walker: That is a compound question?

Mr. Hunt: The prior question.

(Testimony of Frank D. Robinson.)

Trial Examiner Hektoen: Will you read the prior question?

(Thereupon the question referred to was read as follows: "At any time during the 1937 season, did you lay off the fallers and buckers when the trucks were not operating because of weather conditions?")

Mr. Hunt: It is ambiguous. He is trying to get out whether the sawyers were laid off because they could not take out the logs.

Mr. Walker: Just a moment. May the witness be excused from the room? [957]

Trial Examiner Hektoen: Yes, I think so. If you think that the question, "Did he lay off the sawyers and buckers on account of weather conditions?" is ambiguous, I would like to ask the witness if he thinks it is ambiguous. Do you understand the question?

The Witness: Yes, I can answer that question.

Trial Examiner Hektoen: The objection to that extent is overruled.

A. Yes, because in the fall of the year, when you get so many logs ahead, it starts to rain, and then you have too many ahead. Now, if you have a lot cut ahead, and it doesn't start to rain, the hauling could have been carried on. If there are too many left there, and it starts to rain, and you can't haul them, you cannot haul them until late May or June of the next year.

(Testimony of Frank D. Robinson.)

Q. (Mr. Walker) Your answer pertained to the fall of the year? A. Yes.

Q. Prior to the fall of the year, did you lay off the fallers and buckers because of weather conditions? A. Well, now, I don't know.

Q. Take the month of June, 1937, did you lay off any fallers and buckers at that time because of weather conditions?

A. Well, now, I couldn't answer that.

Q. Did you pay the men off, the fallers and buckers, at any [958] time in 1937, because of weather conditions?

A. Well, I don't know, I couldn't answer that, because, if I laid them off, I would pay them off.

Q. Oh, you would? A. Yes.

Q. Do I understand that it has been your practice always that whenever any of the men are laid off because of lack of work, you always pay them off immediately?

A. Yes, unless it is just one or two days, or something like that; just a short time.

Q. If the lay-off is for one or two days, you don't pay them off? A. No.

Q. Do you cause the men to vacate the camp?

A. No; that is immaterial; they can stay in the camp or else go home. [959]

Q. Let's go back. I was misinformed.

Do you recall laying off the jammer that Mr. Greg Moore, Mr. Ralph Peterson and Mr. Ted Early worked on? A. Yes.

(Testimony of Frank D. Robinson.)

Q. Was Mr. Bill Henry a member of that jammer crew, also?

A. Well, they were either skidding or loading at that particular time. When they are loading and they have a top loader, sometimes there are four men in the crew; and if they are just skidding, there are only three men.

I think at this time, the jammer was only skidding; I don't remember just whether Henry was there when the jammer broke down.

Q. If he was a member of the crew at that time, when the jammer broke down, Mr. Robinson, was Mr. Bill Henry laid off and paid off at the same time Mr. Greg Moore, Mr. Ted Early and Mr. Ralph Peterson were?

A. I think so; I am not sure whether he went that day, or went later, but he left the job, I know, at that time, or shortly after that. [960]

He left to go home, I believe. I will have to go to my records to get the dates of that. I wouldn't know.

Q. Well, the day that they were laid off, was the same day on which the union meeting was held; isn't that correct?

A. It was either the 5th or 6th; I am not sure. It was either one of those two days.

Q. Would it have taken about two days to fix the jammer?

A. It would have taken more than that; it had to have a complete overhaul before it went back to work.



(Testimony of Frank D. Robinson.)

Q. Excepting the overhaul, to fix the repairs, how long would it have taken?

A. If I remember right, I think we were around a couple of weeks working on it before we got it in shape to put it back to work.

Q. It took how long?

A. I think it was a couple of weeks, I said, to repair it.

Q. Once you had it down, you went "whole hog"?

A. We did a little bit more repairing on it, getting it ready to load for this season.

Q. Outside of the complete overhaul, how long would it take to do the repairing?

A. I don't know how long it would take to get the parts; sometimes it takes a few days.

Q. There is a Ford Garage in town?

A. Yes, but it didn't sell Model T's, I don't think. [961]

Q. That does not answer my question.

A. Yes, there is a Ford garage.

Q. Do you recall being in Spokane on Saturday, July 1, 1939?      A. No, I don't.

(Thereupon a document was marked as Board's exhibit No. 9 for identification.)

Q. (Mr. Walker, continuing) Mr. Robinson, is there a newspaper published in Sandpoint by the name of the Daily Bulletin?      A. Yes.

Q. And it was published as a daily paper in the month of July, 1939?



(Testimony of Frank D. Robinson.)

A. I think so; I think it is every day.

Q. I hand you what has been marked for identification as Board's exhibit No. 9, and for the purpose of refreshing your memory, I call your attention to that (handing document to the witness). Does it refresh your memory as having been in Spokane, Saturday, July 1?

A. I don't remember going in. I might have made that statement.

Q. Do you recall receiving a \$500 check from the Long Lake Lumber Company dated Saturday, January 1, 1939?

Mr. Hunt: I will object to that as immaterial, what happened in January, 1939. [962]

Mr. Walker: July.

Trial Examiner Hektoen: Did you mean "January"?

Mr. Walker: I will reframe the question.

Q. (Mr. Walker, continuing) Do you recall receiving a \$500 check from the Long Lake Lumber Company on Saturday, July 1, 1939?

A. I wouldn't know. I received checks so often whenever I called for money. I don't remember whether I got a check that day; I don't remember offhand.

Q. Will you, during the noon hour, refer to your records to refresh your memory in that regard? A. Yes.

Q. And also, during the noon hour, will you locate and produce the list of names of individuals you and Davis wrote down on July 5?

(Testimony of Frank D. Robinson.)

A. Yes.

Q. After July 7, and before the camp reopened in the month of July, 1939, during that interval, did Mr. Arley Chaney truck any logs from the Chaney strip?

Mr. Hunt: What was the name?

Mr. Walker: Arley Chaney.

A. He may have, on the road near the main camp, but you could get there, when you couldn't get any other place.

Q. (Mr. Walker) Did Mr. Jim Morrow truck any during that period? [963]

A. Mr. Morrow might have; he was cleaning up a few logs around there, and I think he hauled two or three loads of logs, and he pulled his truck out to the road with the caterpillar. There are a few loads that he may have hauled. [964]

Q. (Mr. Walker, continuing) I call your attention to your [978] testimony about the occasion of July 14, when Mr. Webb and Mr. O'Donnell were at the picket line, and the men went through. Now, do you have in mind what I am referring to?

A. Yes.

Q. I call your attention to what has been marked as Board's exhibit No. 6, and ask you if the individuals who went through the picket line on that occasion were such individuals whose names are listed on board's exhibit No. 6, and opposite whose names appear the dates when the individuals went to work during the month of July?

(Testimony of Frank D. Robinson.)

A. Well, I couldn't give you that, because I don't remember.

Q. Do you recall the occasion of the camp re-opening on or about July 20?      A. Yes.

Q. Were the individuals who went through the picket line on that particular day, such individuals who went to work in the month of July, prior to July 20, 1939?

A. I think so. Now, I am not sure of that; I am not clear on that, but I think that they all did.

Q. Were any of those individuals who went through the picket line at that time, persons who had worked in Caribou Basin prior to June 7, 1939?

A. Yes.

Q. Referring now to the fifth page of Board's exhibit 6, do you recall Mr. Swen Boothe? [979]

A. No. Some of those names I never even heard of.

Q. Well, did you hear Mr. Davis testify that the figures on Board's exhibit No. 6, under the heading of "July", reflect the first day in July when such individuals went to work?      A. Yes.

Q. If any individual listed on Board's exhibit No. 6 does not show a figure under the heading of June, it would mean that such individual prior to the time the date is set out under the heading of "July" had not worked at Camp in the month of June, 1939; is that correct?

A. Well, now, I don't quite understand you.

Q. Particularly referring to the fifth page of Board's exhibit 6, any individual listed anywhere

(Testimony of Frank D. Robinson.)

on Board's exhibit No. 6 who does not have a date under the heading of the word "June", would be an individual who did not work at camp during the month of June, is that correct?

A. That is correct. [980]

Q. Mr. Robinson, do you recall the meeting held at your office between yourself and the union committee in which Mr. Hunt and Mr. Johnson were not present?

A. In my office?

Q. In your office? [998] A. Yes.

Q. At that time, did the union committee offer to take a card check?

A. No, I don't think so. I wanted to put it to an election. I wanted an election, and I think that they wanted to produce the cards, and there was some argument both ways, and we didn't seem to get any place with it.

Q. Were you advised not to sign any instrument embracing a provision that if the union should prove its majority as the result of a card check, that it would thereby become the exclusive bargaining agency for all the employees?

Mr. Hunt: That is objected to until it can be shown who, if anybody, advised that, and who, if anybody, counsel is referring to.

Q. (Mr. Walker) Did you have an attorney during the month of June, 1939? A. Yes.

Q. Were you being advised by him relative to the matter of negotiations or attempted negotiations between yourself and the Union?

(Testimony of Frank D. Robinson.)

A. No, I don't think,—I don't quite get the question.

Trial Examiner Hektoen: Read the question, please.

(Thereupon the last question was read aloud as above recorded.)

A. No. [999]

Q. (Mr. Walker): Were you ever advised whether or not the Union Committee at any time agreed to the holding of an election on July 6, 1939?

A. I agreed to hold an election in July.

Mr. Walker: Read the question to the witness, please.

(Thereupon the last question was read aloud by the reporter as above recorded.)

A. Yes.

Q. (Mr. Walker): Who advised you that?

A. That is what the agreement was; the committee agreed to hold an election.

Q. Do you remember the incident when the committee agreed to hold an election? A. Yes.

Q. And subsequently, the committee withdrew, did they not? A. Yes.

Q. After the time the committee withdrew, were you advised that thereafter the committee agreed to hold an election on July 6? A. No.

Mr. Walker: That is all.

Mr. Hunt: That is all, Mr. Robinson. You may be excused.

(Testimony of Frank D. Robinson.)

Trial Examiner Hektoen: Mr. Robinson, you may be excused. We will have a recess of 10 minutes, at the end of which time I want to ask you some questions. You will be here, will you [1000] not?

The Witness: Yes.

(Thereupon, at this time a short recess was taken, after which proceedings were continued as follows:)

Trial Examiner Hektoen: The hearing will be in session. I think Mr. Robinson may be excused. I don't believe that I have any questions.

(Witness excused)

Trial Examiner Hektoen: Call your next witness, Mr. Hunt.

Mr. Hunt: Mr. Johnson.

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### FRED JOHNSON

called as a witness by and on behalf of the respondent F. D. Robinson, being duly sworn, testified as follows:

#### Direct Examination

By Mr. Hunt:

Q. Your name, please? A. Fred Johnson.

Q. Where do you reside, Mr. Johnson?

A. Sandpoint.

Q. What is your occupation? A. Logger.

Q. A logging contractor? A. Yes, sir.



(Testimony of Fred Johnson.)

Q. Were you a logging contractor in Bonner County in 1939?      A. I was. [1001]

Q. And where were you logging at that time?

A. On Trout Creek.

Q. Where is Trout Creek?

A. It is 20 miles north of Sandpoint.

Q. How far, approximately, is it from the Caribou Basin where Frank Robinson was logging?

A. The Caribou Basin would be, in a straight line, about 18 to 20 miles, west.

Q. And were the weather conditions in Robinson's Camp about the same as in your own camp?

A. I think it would be more favorable in my camp than where he is.

Q. Why, Mr. Johnson?

A. Because I am in a lower altitude, and have a better road.

Q. Who were you logging for in June of 1939?

A. The Diamond Match Company.

Q. Do you remember what the weather conditions were in April, May and June of 1939?

A. All I can go by is the records that I have, and the dates I have trucked, which I have in my pocket here.

Q. Before we come to the specific dates, did you have much rain in the month of June, 1939?

A. Lots of it.

Q. And did the rain interfere with your trucking of logs in your operation in June of 1939?

[1002]

A. It certainly did.



(Testimony of Fred Johnson.)

Q. Were you able to truck?

A. I trucked some.

Q. What, if anything, did you do in order to be able to truck at all?

A. The roads we used in May, I had to plank them in June in order to work.

Q. You say you planked the road; will you say what you mean when you planked the road?

A. We used a three-inch plank.

Q. Did you put them on the road?

A. Yes, and we put ties in under them, and spiked them to the ties, so that they would stay in position on the road.

Q. You mean, you made the road so that the wheels of the logging trucks would ride upon the planks?      A. That is right.

Q. If the road had not been planked, could the trucks have gone through?      A. No.

Q. In June of 1939, you had to build a plank road in order for the trucks to haul out of your operation?      A. Correct.

Q. After the trucks got out of your operations, did they get on a better highway?

A. Well, it is an old road; a hard-bottom road.

[1003]

Q. It had been graveled?

A. It is a graveled road; it has not even been graveled; but it is not necessary to gravel it; it is gravel.

Q. It is a natural gravel road?

A. A natural gravel road.

(Testimony of Fred Johnson.)

Q. This road had been graveled at public expense?

A. No. I had taken care of it in previous years.

Q. And when you got on that road, you were able to go?      A. That is right.

Q. Do you remember specifically whether it rained during each day for the first week in June?

A. Well, I can tell from the dates I have here, when I trucked; I can tell what dates I trucked there, and the days when it was raining, I couldn't truck.

Q. This memorandum which you hold in your hand was made by you from the records in your office?      A. Yes.

Q. Referring to your records, will you tell me what days in June of 1939 you were able to truck, and the days on which you were able to haul logs?

A. I trucked the first, second and third of June.

Q. Then what happened?

A. Then it rained. And then I trucked on the 12th, 13th, 14th, 15th; and then we had to wait again, from the 16th to the 21st, it rained; on the 21st, 22nd and 23d; and then there is a [1004] space there to the 27th. The 27th, 28th, 29th and 30th, and then it rained again.

Q. That is as far as we want to go. Well, we might as well go on. Have you the record?

A. To the 3rd of July. The first, second and third of July, it rained hard, and we didn't truck anything the first week. After the Fourth.—

(Testimony of Fred Johnson.)

Q. How long after the third of July was it before you were able to start trucking again?

A. I am not positive of the date. It was a few days.

Q. It rained on the 4th?

A. Not on the 4th; it rained hard on the 3d; and the 4th; I don't believe, was a rainy day. [1005]

#### Cross Examination

Q. (Mr. Walker): Did you observe the Fourth of July holiday at the Diamond Match camp?

A. Absolutely.

Q. For how long a period were the men laid off?

A. Generally, from about the 3rd, and then they started to work three or four days after the 4th; something like that.

Q. Along during the 7th or 8th; along in there?

A. Yes.

Q. And do I understand that the reason that you were able to [1008] truck was because you had a planked road? A. That is right.

Q. And that the main highway was planked by you?

A. It had been graveled for three or four years previously by me. [1009]

(Thereupon the question referred to was again read as follows: "Did your fallers and buckers continue working during June?")

A. A part of the time, when it was not raining.

Q. (Mr. Walker): Did you pay them off?

A. We didn't pay them off until they were through work.

(Testimony of Fred Johnson.)

Q. You trucked on the first, second and third of June, and then you were off until the 12th?

A. That is correct. The first, second and third, and then we worked the 12th, 13th, 14th and 15th.

Q. Now, at the conclusion of the work on the day of the third, did you pay off your truckers?

A. No, we didn't pay them until the end of the month. [1011]

We don't pay our men until the end of the month, except when they quit.

Q. Did the fallers and buckers evacuate the camp?

A. Most of them go home when it rains.

Q. Did you ask your fallers and buckers to leave the camp?

A. I want them there in case it might clear up.

Q. Did you ask your truckers to leave camp when they were off from the period of June 3 to June 12?

A. They can suit themselves.

Mr. Walker: That is all.

#### Redirect Examination

Q. (Mr. Hunt): Just one question. Let us get it clear about the roads which you planked. Can you tell me which road it was that you planked?

A. Just the timber roads into the timber.

Q. Were they the main roads in your operation?

A. They were, so far as getting logs out of the timber into the main road were concerned.

Q. Did you haul from all of the roads in your woods during the month of June?

A. All of the logging roads, we did, yes.

(Testimony of Fred Johnson.)

Q. Were there any roads that you could not get over at all?

A. Those that were not planked, we could not get over.

Mr. Hunt: That is all.

Recross Examination [1012]

Q. (Mr. Walker): When did you first construct the roads which were planked?

A. The roads were made late in the fall of 1938; that is, in September, I think, in 1938.

Q. And the first time then they had been used for the hauling of logs was in the spring of 1939?

A. That is correct.

Trial Examiner Hektoen: I have one question. Is it your custom to build plank roads?

The Witness: Well, it is not, unless it is necessary.

Trial Examiner Hektoen: Well, it must have been necessary in 1938 in the fall?

The Witness: The reason for building them in the fall is to let them set during the winter, so that they can pack.

Trial Examiner Hektoen: And then you, as an experienced operator, anticipate difficulty in the spring, is that correct?

Trial Examiner Hektoen: That is all.

(Witness excused)

Mr. Hunt: Mr. Knight, will you please take the stand?

RALPH KNIGHT

called as a witness by and on behalf of the Respondent F. D. Robinson, being first duly sworn, was examined and testified as follows:

Direct Examination [1013

Q. (Mr. Hunt): Will you state your name?

A. Ralph Knight.

Q. Where do you reside?

A. Sandpoint Branch Experiment Station.

Q. Where is that Experiment Station in relation to the city of Sandpoint?

A. Just out north; on Boyer Avenue, just outside of the city limits. I believe the S&I track is the City Boundary; we are just across the track.

Q. What are your duties at the experiment station?

A. The station there is a regular agricultural experiment station, which is a branch of the main station at the University. I superintend all the experimental work that is conducted there; in addition, I am one of the state official Weather Observers.

Q. And in your capacity as a weather observer, do you maintain daily readings of precipitation, weather conditions, and so on?

A. Yes, every day.

Q. And did you have occasion to do that work during the year 1939?      A. Yes.

Q. During the entire year?

A. Yes, the entire year.

Q. I will ask you whether or not at my request,



(Testimony of Ralph Knight.)

you checked the records during the year 1939 at your station?      A. Yes, I did. [1014]

Q. You checked the records?      A. Yes.

(Thereupon a document was marked as Respondents' exhibit No. 8 for identification.)

Q. (Mr. Hunt): Mr. Knight, handing you an exhibit which has been marked as Respondents' exhibit No. 8 for identification, I will ask you to look that over and tell me whether or not that shows, first, on the left-hand side, the precipitation for the month of June, and for the first 15 days of July, 1939.      A. Yes, it does.

Q. What is represented on the column to the right? In other words, does the other column show precipitation, month by month, for the year 1939?

A. Yes, that is right.

Q. What does the letter "T" indicate in various places?

A. The "T" just indicates a trace; that is all.

Q. That stands for a trace?      A. Yes.

Q. And that would be how much?

A. Less than one-hundredth of an inch.

Q. And the other decimal points show,—each one shows one hundredth of an inch?

A. That is right.

Mr. Hunt: We will offer this in evidence.

Mr. Walker: No objection. [1015]

Trial Examiner Hektoen: It will be admitted.

(Thereupon the document heretofore marked Respondents' exhibit No. 8 for identification, was received in evidence.)



(Testimony of Ralph Knight.)

## RESPONDENTS' EXHIBIT No. 8

## PRECIPITATION

1939

June 1, .....	T
2 .....	—
3 .....	—
4 .....	.18
5 .....	.11
6 .....	.06
7 .....	.16
8 .....	.07
9 .....	.11
10 .....	.02
11 .....	T
12 .....	—
13 .....	.22
14 .....	—
15 .....	.20
16 .....	.22
17 .....	.30
18 .....	.29
19 .....	.04
20 .....	.46
21 .....	—
22 .....	—
23 .....	.20
24 .....	—
25 .....	.23
26 .....	—
27 .....	—
28 .....	—
29 .....	—
30 .....	—
July 1 .....	—
2 .....	—
3 .....	.33
4 .....	.04
5 .....	T
6 .....	T

(Testimony of Ralph Knight.)

7.....	—
8.....	—
9.....	—
10.....	—
11.....	—
12.....	—
13.....	—
14.....	—
15.....	[Illegible]
1939	
Jan. ....	4.63
Feb. ....	2.70
Mar. ....	1.91
Apr. ....	.64
May .....	.57
June .....	.87
July .....	.45
Aug. ....	.01
Sept. ....	.62
Oct. ....	2.38
Nov. ....	.84
Dec. ....	6.33
	24.95
Total .....	24.95
Ave. Per Mo. ....	2.08

Q. (Mr. Hunt): Would you prefer to refer to the original records, or this exhibit (indicating)?

A. I don't think that it would make any difference; I checked them, and they correspond exactly.

Q. Looking at your records, would you tell me what the record shows with regard to precipitation on the first of June, 1939?

A. On the first day of June, 1939, it showed only a trace of precipitation.

(Testimony of Ralph Knight.)

Q. How about the 2nd? A. None.

Q. The third? A. None.

Q. The fourth? A. .18.

Q. On the fifth? A. .11.

Q. On the 6th? A. .06.

Q. On the 7th? A. .16.

Q. Now, tell me how many days it went on before there was a [1016] day without any rain?

A. It rained,—the rains continued. It rained again on the 8th; again on the 9th; it rained again on the 10th; with just a trace on the 11th. On the 12th, there was no rain.

Q. All right, that is far enough.

Now, look at your records, again, Mr. Knight, and please tell me how many days during the month of June was it either raining or cloudy, according to your records?

A. During the month of June we had 17 days which were cloudy, and 8 additional days which were partly cloudy.

Q. Of course, on some of the cloudy days, you also had rains on those days?

A. Some of them, yes.

Q. There is no differentiation there?

A. No.

Q. The cloudy days would include some days that rained? A. Yes.

Q. How long have records been kept at the experiment station?

A. The records were started there in November of 1910.

(Testimony of Ralph Knight.)

Q. Do you have records showing precipitation for the month of June, for every year since 1910?

A. Yes.

Q. Will you tell me what the average precipitation for your station for the month of June is?

A. The average precipitation for June from 1911 to 1936, [1017] inclusive, shows 1.59.

Q. Pardon me. Will you repeat that figure?

A. 1.59.

Q. Now, will you look at your records and tell me what the precipitation was for the month of June, 1939? A. It was 2.87.

Q. State whether or not the precipitation in the month of June was more than the average?

A. Yes.

Q. Tell me from your records how many months of June between the years 1911 and 1936 had a greater precipitation than did June, 1939?

A. In two years up until and including 1936, that had a greater precipitation than June of 1939?

Q. Yes. I don't believe that I understood you.

A. There were two years up until and including 1936 that had a greater precipitation than June of 1939.

Q. What is the elevation, approximately, at your experiment station? A. About 2100 feet.

Q. Will you state, Mr. Knight, whether or not, in a mountainous region, such as the Pack River Valley, would there be a tendency to be heavier rain, and more sudden and more violent storms?

(Testimony of Ralph Knight.)

And would there be a greater tendency to hail and snow than there would be at your station?

A. According to the weather reports which we get from the [1018] state office, it appears that in the higher elevations, in a certain locality or vicinity, that is true. In other words, you will find your heavier rains,—your annual precipitation, for example, and your total will be higher and quite often you would have heavier local showers and rains.

Mr. Walker: May I get the answer, Mr. Nelson?

(Thereupon the answer of the witness was read aloud as above recorded.) [1019]

The Witness: May I have it re-stated?

(Thereupon the question referred to was read as follows: "And from your observation, and from the records which you have gone over, state whether or not, in your opinion, during the month of June, 1939, there would have been heavier rains and a greater precipitation in those areas of the Pack River Valley, particularly the Caribeu and the Hell Roaring Basin, than there would have been at your experiment station?") [1020]

A. That is a question that could not be answered "yes" or "no". I would say that it would be logical to assume that there would be, but so far as making a statement for a particular month, of course, I don't have it.

Q. (Mr. Hunt): Mr. Knight, can you state

(Testimony of Ralph Knight.)

whether or not, as the elevation increases in the mountains around here, whether the storms, the rains, and the hail have a tendency to be sharper, more sudden, more violent in higher elevations than in lower elevations?

Mr. Walker: I will object to that as repetition.

Trial Examiner *Hunt*: I thought that question was asked.

Mr. Hunt: First, I asked him if there would be a tendency to be more precipitation, and now I am asking him if there would be a tendency to more violence in the storms. In other words, if there would be one tenth of an inch scattered over 24 hours, or whether it would come right now.

A. I might answer that this way: I was checking over a bulletin by Christ, a former superintendent of the Experiment Station, the job which I now have. He went to some little length in the discussions of climate, and he said, in one of his statements, that as a whole, you would expect a heavier precipitation at higher elevations.

Q. All right, now, coming down to the violence of the storms of all kinds: would there be a tendency for them to be more violent and more sudden, and sharper? [1021]

A. I think I could answer that best by the records that come in. I know, on cross sections, when we have a light shower or a fairly good rain, we hear of heavy rains in other localities nearby.

Q. In the mountainous localities? A. Yes.

Q. What was Mr. Christ's full name?

(Testimony of Ralph Knight.)

A. J. H. Christ.

Q. By whom is Mr. Christ now employed?

A. He is now employed by the United States Department of Agriculture.

Q. In what capacity?

A. Regional Director of the Soil Conservation Service.

Q. And the bulletin reported was written by Mr. Christ?

A. Yes, I have the bulletin right there (indicating), in which that statement was made.

Mr. Hunt: That is all.

#### Cross Examination

By Mr. Walker:

Q. On occasions when there are rains in Caribou, might there not be rains at Sandpoint?

A. There might be.

Q. By the same token, might there be rain in Sandpoint when there might not be rain at Caribou?

A. That is very true, so far as I know.

Q. Mr. Knight, I call your attention to the testimony relative [1022] to the report of the State Office, concerning the higher elevations in certain locations. A. Yes.

Q. Can you state what locations you referred to in the report from the State Office?

A. We have records from all over the State. We have weather observers in the State, and this was conducted by the State Weather Bureau.



(Testimony of Ralph Knight.)

Q. Were those reports peculiar to the Caribou Basin?           A. No.

Q. I call your attention to the testimony about the average precipitation from 1911 to 1936, both inclusive, in which, during the month of June, there was greater precipitation on only two occasions than there was in June of 1939. Between the interval of 1936 and 1939, what was the situation?

A. You would like to have June for the following years?

Q. Yes.

A. In June, 1937, we had 3.65 inches of rainfall; in June of 1938, we had .84.

Q. Mr. Knight, have you been present when there was testimony given in relation to weather conditions in April and May of 1939?

A. Oh, that might have been touched on this afternoon while I was here; I have not been here very long.

Q. Can you describe what the precipitation record was for the [1023] month of May, 1939?

A. The total precipitation for May, 1939, was .57 inches; that is, here at Sandpoint at our station.

Trial Examiner Hektoen: .57?

The Witness: Yes.

Q. (Mr. Walker): Now, over a period of years, would the average precipitation,—strike that. Bearing in mind your testimony to the effect that rain may fall at Caribou and may not fall at Sandpoint, and also bearing in mind your testimony to the effect that rain may fall in Sandpoint and may not

(Testimony of Ralph Knight.)

fall in Caribou; over a period of years, would there be any appreciable difference in your record of the average rainfall at Sandpoint as compared with what would be the average rainfall at Caribou?

A. You say, would there be any appreciable difference in those two?

Q. Yes, any difference at all?

A. Over the rainfall at Sandpoint and what the average was at Caribou?

Q. Yes.

A. I would not be in a position to answer that, I am afraid.

Q. What will be the average rainfall in Sandpoint over the period of a year with respect to what would be the average rainfall in Caribou over the period of a year? Would that be substantially the same?

A. Well, we can assume that,—that is another thing that [1024] we will have to assume. We would expect it to be somewhat higher in Caribou; how much, we don't know. That is something that we cannot answer definitely.

Q. What is your opinion in that regard, sir?

A. I would say that, as I have already stated, we would normally expect the higher precipitation at the higher elevations.

Q. Now, let us go back to May, 1939. How many days of rainfall was there in the month of May, 1939?

A. If we left out those days in which there was only a trace of rain, that is, less than one-hundredth

(Testimony of Ralph Knight.)

of an inch, there were 9 days that had one-hundredth of an inch or more.

Q. When were the 9 days with respect to the first or the last day of the month?

A. Practically all of the rain, except for two hundredths came after the 16th of the month. There were two one-hundredths previous to the 16th, and the rest came after the 16th.

Q. How much did you say there was?

A. Total of .57; .57.

Q. .57? A. That is right.

Q. In a period of 24 hours, how constant must rain fall in order to constitute an inch of rainfall?

Mr Hunt: Will you read that question, please?

(Thereupon the pending question was read aloud as above [1025] recorded.)

Q. (Mr. Walker): Assuming that an inch of rainfall falls within a period of 24 hours, how constant and how concentrated must the rain be during that period?

A. Well, it is rather difficult to measure or set up your standard of concentration. In other words, you can have so many varying degrees.

Q. In order to have a trace of rainfall to be recorded, what type of rainfall is usually necessary, and what is it called?

A. We frequently get a few places that have a few spatters of rain or snow, which would constitute a trace, but still it is not enough to measure.

Q. And what is that commonly called? Is that an average drizzle?

(Testimony of Ralph Knight.)

A. I don't think that could be answered. That is a pretty hard question to answer. You mean as to amount?

Q. Yes.

A. As to the average drizzle, that is something I don't think can be answered.

Q. Mr. Knight, will you refer to May 24, 1939?

A. May 24?

Q. Yes. From that date to May 31, what were the precipitation measurements?

A. We had none on the 24th; none on the 25th; four one- [1026] hundredths on the 26th; a trace on the 28th; five one-hundredths on the 29th; and none on the following two days.

Q. Mr. Knight, can you give me what the average rainfall was for the month of July, 1939?

A. The total rainfall for July, 1939?

Q. Yes. A. It was .45; .45.

Q. What was the total rainfall for the month of April, 1939? A. .64.

Q. Now, what was the total rainfall for the month of April, 1938? A. April, 1938?

Q. Yes, that is right. A. 1.38.

Q. What was the total rainfall for the month of May, 1938? A. .89.

Q. And the total rainfall for the month of June, 1938? A. .84.

Q. And the total rainfall for the month of July, 1938? A. .52.

Q. And can you give us the total rainfall for the month of April, 1937?

(Testimony of Ralph Knight.)

A. April, 1937, was 3.36.

Q. And what was the total rainfall for the month of May, 1937? [1027]      A. .52.

Q. What was the total rainfall for the month of June, 1937?      A. 3.65.

Q. What was the total rainfall for the month of July, 1937?      A. 1.19.

Mr. Walker: That is all.

Mr. Hunt: That is all, Mr. Knight. Thank you.

(Witness excused.)

Trial Examiner Hektoen: We will take a short recess.

(Thereupon, at this time a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Hektoen: The hearing is in session.

Mr. Hunt: I will call Mr. Callahan.

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PATRICK CALLAHAN

called as a witness by and on behalf of the Respondent F. D. Robinson, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Hunt:

Q. Your name is Patrick Callahan?

A. Yes.

Q. Where do you reside?

(Testimony of Patrick Callahan.)

A. Sandpoint, Idaho.

Q. What is your occupation?

A. I am the fire and weather dispatcher at the Kaniksu National Forest. [1028]

Q. Now, where are the headquarters of the Kaniksu National Forest?

A. At Sandpoint, Idaho.

Q. Generally speaking, for the record, we are surrounded by the Kaniksu National Forest?

A. We are, practically.

Q. Some of the Kaniksu Forest is east; some of the Kaniksu Forest is west, and some south and some north?      A. Yes.

Q. State whether or not, Mr. Callahan, as a part of your duties, it is a part of your duties to collect data concerning precipitation, storms, and so forth?      A. Yes.

Q. And you are the custodian of those records?

A. Yes.

Q. At my request, have you made a statement showing the precipitation for the months of May and June, 1939?      A. I have.

Q. Do you have it with you?      A. Yes.

Q. Does the record that you made also include the precipitation for the month of April, 1939?

A. It does.

(Thereupon a document was marked as Respondents' Exhibit No. 9 for identification.)

[1029]

Q. (Mr. Hunt): Now, where were these rec-

(Testimony of Patrick Callahan.)

ords taken from? Where were they taken upon the Kaniksu Forest?

A. Those particular records were taken north of the Priest River horizon.

Q. Approximately how far is this experiment station from what is known as the Caribou Basin?

A. Between 11 and 13 miles south and west.

Q. Glancing at the exhibit which you have described, being marked as Respondents' exhibit No. 9, will you tell me what the precipitation was for the month of April, 1939?

A. By the days?

Q. Just the total. A. .61.

Q. Could you tell me what the precipitation was for the month of May, 1939?

A. .82. These are excluding traces.

Q. Excluding traces? A. That is right.

Q. Coming down to the month of June, will you read the precipitation, day by day, starting from June 1st up to, let us say, June 10?

A. June 1, 1939, .02.

Q. Just a minute.

A. On the first, .02; on the third, .03; on the fourth, .02; on the fifth, .01; on the sixth, .07; on the seventh, [1030] .18; on the eighth, .11; on the ninth, .11; on the 10th, .20; on the 11th, .12; on the 12th, .04; on the 13th, .01.

Q. State whether or not, according to your records, for the month of June, the 14th day of June was the first day of that month when you didn't have a record of any rain?



(Testimony of Patrick Callahan.)

A. No, sir; the second.

Q. There was none on the second, and then you didn't skip a day until the 14th; is that correct?

A. Yes.

Q. What was the total precipitation for the month of June, according to your records?

A. 2.96.

Q. Now, Mr. Callahan, do you have with you the records of the Forest Service showing the precipitation in this area for several years last past?

A. I have the records from this station for several years last past.

Q. Will you refer to them, please? How far back do these records go?

A. July,—they go back to January of 1912.

Q. Now, will you look at that record and tell us how many months of June since 1912 have had more precipitation than the month of June, 1939?

A. 1913, 1916, 1937,—correction. I might add 1927.

Q. What is the elevation at which those readings were taken? [1031]

A. Approximately 2400 feet.

Q. Approximately 2400?

A. 2368 is the elevation given here.

Q. I didn't get it? A. 2368.

Q. The elevation at Sandpoint is what?

A. 2050 feet.

Q. 2050 feet? A. Yes.

Q. Now, Mr. Callahan, in the course of your

(Testimony of Patrick Callahan.)

employment, have you had occasion to study storm areas in this particular vicinity?

A. Yes, I have.

Q. Have you brought with you certain original records of your office which show the tendency of storms in the vicinity of Caribou Basin?

A. I have a record of the storms which occurred in June of 1939. That was in the Shiloh District.

Q. And the Shiloh District is where in relation to the Caribou Basin?

A. It is adjacent to Caribou Basin. Caribou Basin is on the south and west extremity of the Shiloh District.

Q. Do you have those records with you?

A. Yes.

Q. May I have them? [1032]

A. Certainly. (Handing document to counsel.)

(Thereupon the document hereinabove referred to was marked as Respondents' exhibit 10 for identification.)

Q. (Mr. Hunt): Is it a part of your duties, or a part of the duties of the lookout man to plot the various storms that hit their vicinity during the season?

A. They are supposed to record the strike,—where the lightning strikes to the ground.

Q. Do they also record the course of the storms which occur there, or which cross there?

A. There are certain of them in each district which do.

(Testimony of Patrick Callahan.)

Q. And this record, respondents' exhibit No. 10, that is a record of storms?

A. That is the record built by the dispatcher at Shiloh.

Q. I will ask you, Mr. Callahan, to take respondents' exhibit No. 10 and slowly explain the meanings of the diagrams on each page of exhibit 10.

A. On June 13, 1939, the dispatcher at Shiloh reported to the supervisor that a storm had entered the district from the southwest at 12:04 p.m.,—had entered the district just west of Jeru, moving north and slightly east across McCormick, splitting, and a part of the storm was moving directly east to Black Mountain, and a remnant moving north and east across Caribou,—which is a different Caribou, by the way, if we can differentiate here.

[1033]

That was the storm of that date, and the dispatcher reported this as a part of the information that was compiled from the various maps; this concerns only the Shiloh District. He also shows that on the same day, at 11:30 in the morning, the storm entered the district south of Jeru, moving north and east, and going off the district across to Black Mountain.

On June 24, according to the information he submitted, a storm built up at Jeru Peak, starting at 3:30 p.m., and he labelled it "lightning", showing that it started at 3:30 p.m. at Pack River. This moved across, and was shown as stopping at 3:50

(Testimony of Patrick Callahan.)

p.m. at the Great Northern Railway. By starting and stopping, these times are the time of the first strike going to the ground, and the time of the last strike hitting the ground.

On June 29, he plots a storm as moving north and slightly east over Jeru and continuing across the district, moving off north and east.

Q. How far is Jeru Peak from Caribou Basin?

A. Approximately,—I would guess, and it is purely a guess,—I would say that it is 7 or 8 miles. I don't know exactly where the logging operation is.

Q. How far would it be from the headwaters of the Hell Roaring Creek?

A. Jeru Peak is on the Divide between Jeru and McCormick Creek,—I beg your pardon on that. I am not familiar with those [1034] creeks enough to know the creek north and south, but, as I remember, Jeru Peak is immediately north of Hell Roaring Creek. That is, immediately north of Hell Roaring Creek Basin.

Q. Mr. Callahan, will you state whether or not this vicinity of Caribou Basin is generally regarded as a storm area?

A. I regard it as such. I have been watching it since 1929, and the storms coming across this area, not always, but usually, fall between Blue Mountain on the south and up to what they call Mt. Roothenau on the north.

Q. State whether or not it is usual to have heavy and violent rain storms in that vicinity?

(Testimony of Patrick Callahan.)

A. Storms would not have to be called electrical storms. The amount of rain depends on the kind of storms, and the severity of the storms.

Q. What I am getting at, are we apt to have more sudden and more violent downpours at your station than at the experiment station?

A. No, sir.

Q. Are you apt to have more violent rainfall and more sudden rainfall at the higher than at the lower elevations?

A. Yes, that is generally true.

Q. Would you state what would be your opinion as to which place had the greater precipitation in July of 1939, at the Caribou Basin, or at the experiment station?

A. I lack records of the area, Mr. Hunt, but I speak of it [1035] as being wet. We have no necessity for lookouts south; and, lacking records, I would like to say that that area through Jeru Peak has slightly more rains than the records at the experiment station.

Q. Would you state whether,—strike that. You stated that you didn't put a lookout south in the month of June, 1939?

A. I said that we had none there.

Q. Why?

A. All the lookouts were put out earlier in the year, and they went out in the last part of the month. The amount of rain and the fogginess was such that there was no necessity for the lookouts

(Testimony of Patrick Callahan.)

being out there, except in the areas that did not receive this rain.

Q. In other words, the month of June, 1939 was so wet that the danger of fire did not exist in any material degree?

A. It existed in some localities; we had lookouts in some areas.

Q. But not in the vicinity of the Caribou Basin? A. No.

Q. Mr. Callahan, I neglected to ask you, when you were referring to your records a minute ago, whether the average rainfall for the month of June was available. Do you have it with you?

A. You mean for all years?

Q. Yes. [1036]

A. Our records are averaged only through 1931.

Q. From what date?

A. 1912, and the average is 1.78.

Q. 1.78? A. Yes.

Q. What was it last year?

A. From 1912 to 1931, inclusive.

Q. Oh, the last year was 1931, where you have the averages? A. Yes.

Q. And the average is 1.78?

A. That is right.

Q. Mr. Callahan, you have indicated on each one of the sheets marked as Respondents' exhibit No. 10, by an egg-shaped circle,—

A. (Interposing) That is right. That is an ellipsoid.



(Testimony of Patrick Callahan.)

Q. You have indicated on each page of Respondents' exhibit No. 10, an ellipsoid showing the general location of what we have been discussing as the Caribou Basin; is that correct?

A. That is correct.

Q. That is shown on each page? A. Yes.

Mr. Hunt: We offer respondents' exhibits 9 and 10 in evidence, and ask permission to withdraw Respondents' exhibit No. 10, for the purpose of having Mr. Callahan make a copy of it, and we will return the copy tomorrow. I think that we can agree that that will be done. [1037]

Mr. Walker: That is all right.

Trial Examiner Hektoen: Is there any objection?

Mr. Walker: Just a moment. No, I have no objections.

Trial Examiner Hektoen: Respondents' exhibits 9 and 10 will be admitted; and a copy may be made of respondents' exhibit 10, after which the original may be withdrawn.

The Witness: Do I have to return the original?

Mr. Hunt: You make a compared copy and deliver it to my office, if you will.

Trial Examiner Hektoen: Are you the custodian of those records?

The Witness: Yes, I am responsible for those records.

Trial Examiner Hektoen: Are you the draftsman of the original?

The Witness: No.



(Testimony of Patrick Callahan.)

Trial Examiner Hektoen: You can also reproduce them?

The Witness: Yes.

Trial Examiner Hektoen: Very well.

(Thereupon the documents heretofore marked as Respondents' exhibits 9 and 10 for identification were received in evidence.)

### RESPONDENTS' EXHIBIT No. 9

Experiment St. Priest River, Idaho

April

1939

8.....	.04
9.....	.06
12.....	.39
13.....	.03
22.....	T
24.....	.06
25.....	.03
29.....	T

---

.61

May

1939

4.....	.04
5.....	T
6.....	T
7.....	T
16.....	.01
17.....	.23
19.....	.06
20.....	.01
21.....	T
22.....	.33
23.....	.14
24.....	T
28.....	T
29.....	T

---

.82

(Testimony of Patrick Callahan.)

June  
1939

1.....	.02
3.....	.03
4.....	.01
5.....	.02
6.....	.07
7.....	.18
8.....	.11
9.....	.13
10.....	.20
11.....	.13
12.....	.04
13.....	.01
15.....	.18
16.....	.15
17.....	.41
18.....	.25
19.....	T
20.....	.68
21.....	T
23.....	.08
24.....	.20
25.....	.03
26.....	T
30.....	.10
	<hr/>
	2.96

Mr. Hunt: That is all.

Cross Examination

By Mr. Walker:

Q. Mr. Callahan, referring to what has been marked as respondents' exhibit No. 9, the "T" indicates what?      A. A trace. [1038]

Q. The days of the month which are not recorded indicate what?

(Testimony of Patrick Callahan.)

A. Absence of rain, or a trace.

Q. Does it necessarily follow that the storms which have been recorded on Respondents' exhibit No. 10 have a relationship to the amount of rain falling on the days on which the storms are recorded?

A. With respect to what area? You mean within the storm area itself?

Q. With respect to your record?

A. These records are outside of the area.

Q. Outside of the path of the storm?

A. The approximate location would be out in the area from where the measurements are taken; and if you are asking me the relationship between these measurements and the path of the storm,—

Mr. Walker: For the record, when the witness said "out in the area from where the measurements are taken", he indicated a point off the paper.

Q. (Mr. Walker) Now, Mr. Callahan, is it true that it may rain at Caribou when it does not rain at the experiment station? A. It may.

Q. And it may rain at the experiment station when it does not rain at Caribou?

A. It is not so usual for it not to rain at the experiment station and then not rain later at the Caribou as it would for [1039] it to rain first at the Caribou and not rain at the experiment station.

Q. How do you account for that?

A. The prevailing winds in the storm path are from the southwest, and any storms passing over the experiment station would follow across in the

(Testimony of Patrick Callahan.)

direction of the northeast, and consequently, go across Jeru Peak.

Q. Did I understand you to testify that the presence of lightning does or does not have a relationship to the presence of precipitation?

A. I don't think that I testified to that.

Q. What is your answer?

A. Not necessarily.

Q. Have you a record of the amount of clear days during any of the periods for which you have made a record as to precipitation?

A. I have the records, not in my possession, because they have been forwarded to Missoula.

Q. The Forest Service does also maintain a record of the days of sunshine?

A. The number of hours of Sunshine.

Q. Could you obtain that, you think?

A. I would have to get permission from the experiment station at Missoula; and they might, or they might not. They would probably give you the information from those reports, but they [1040] will probably not submit the records.

Q. Would they supply the information to you?

A. They would give me the number of hours, or the number of days.

Q. How long would it take you to obtain that?

A. At this time of the year, they are terribly busy; you could probably get it in a week.

Q. How long?           A. Within a week.

Q. Do I understand that the diagram set out

(Testimony of Patrick Callahan.)

in respondents' exhibit No. 10 indicates where the storm originates and the path of the storm?

A. No, sir; not necessarily. It is one of the things that help to indicate the origin of the storm; it indicates that it might have gone on through the district at the point indicated below.

Q. Were those only the days in the month of June when storms were recorded at the place where the recordings were made?

A. Electrical storms?

Q. Well, is that what was recorded?

A. That is what was recorded; lightning storms.

Q. Only lightning?

A. That is true. The lightning storms traversing and going across that district in those days.

Q. Were those the only lightning storms for which recordings [1041] were made in the month of June?

A. Those are the only ones submitted to me.

Q. If there were others, they would have been submitted to you, would they not?

A. They should have been.

Mr. Walker: That is all.

Mr. Hunt: That is all.

(Witness excused.) [1042]

GEORGE F. DUNN

called as a witness by and on behalf of the Respondent F. D. Robinson, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Hunt:

Q. State your name, please?

A. Mr. George F. Dunn.

Q. Where do you reside, Mr. Dunn?

A. 425 Michigan Street.

Q. Sandpoint, Idaho? A. Sandpoint.

Q. How long have you resided in Sandpoint?

A. About 17 years.

Q. During that time, by whom have you been employed?

A. The Humbird Lumber Company.

Q. And in what capacity?

A. As a timber cruiser.

Q. During 1939, were you familiar with what is generally known as the operations of Frank D. Robinson in the Caribou Basin in this county?

A. Approximately, yes. [1047]

Q. And did you have occasion in 1939 to visit that operation? A. Yes.

Q. Many times? A. Yes.

Q. Will you state how you happened to have occasion to visit this operation?

A. I received orders from the General Manager of the Humbird Lumber Company.

Q. Who is the general manager?

A. Mr. Ole Pearson.

(Testimony of George F. Dunn.)

Q. Let us specifically come down to the spring of 1939, and particularly during the first week of June, 1939. Did you have occasion then to go up to Mr. Robinson's camp on several occasions?

A. Yes.

Q. I will ask you, Mr. Dunn, approximately how much timber was cut, and lying in the woods or decked at that camp? How much White Pine?

A. Oh, there was,—I have forgotten now,—in the neighborhood of 800,000, I should say.

Q. And some mixed? A. Yes.

Q. Cedar poles? A. Yes.

Q. Now, did Mr. Pearson order you to go up there on several [1048] occasions around the first week of June? A. Yes, sir.

Q. And what were his instructions to you?

A. As to the general operations, and so on?

Q. Yes.

A. If they could move timber at that time, to see about it.

Q. Let us stop right there. Your instructions, among others, from Mr. Ole Pearson, the superintendent of the Humbird Lumber Company, was to go to Mr. Robinson's camp to ascertain whether they could move any timber at that time?

A. Yes.

Q. Now, state whether or not during the first week in June, 1939, it was feasible or practical for Robinson to attempt to truck logs in his operations at the Caribou Basin?

A. It was a very rainy period, and all the roads



(Testimony of George F. Dunn.)

leading to the timber were impassable at that time.

Q. What road was that? Was that the main road?

A. The main road could be driven over.

Q. Where were the logs at? Were they on the main roads or the side roads?

A. There wasn't any timber on the main roads.

Q. That is, cut?

A. None cut, no, sir.

Q. And did you report to Mr. Pearson that Robinson could not truck logs out of there at that time? [1049]

A. Yes.

Q. Now, Mr. Dunn, in your employment as cruiser for the Humbird Lumber Company in 1939, and particularly in the spring of 1939, state whether or not it was a part of your duties to check up on the sawyers working for Robinson?

A. Yes, sir.

Q. And did you check up on them?

A. Yes.

Q. Now, in checking up on the work that the sawyers were doing, what particular thing did you do?

A. It was my duty to see that the timber was felled properly, the logs cut the proper length according to the contract, and to see that the timber was not broken up, to see that the ground was cleaned, and to look after the timber of the corporation.

Q. By the way, who owned the real estate and the timber on it?

(Testimony of George F. Dunn.)

A. The Long Lake Lumber Company.

Q. I mean, before the timber was cut, who owned it?

A. The Humbird Lumber Company.

Q. And do you know whether or not the Humbird Lumber Company was selling it to the Long Lake Lumber Company?      A. Yes.

Q. And after the timber was cut, it became the property of the Long Lake Lumber Company?  
[1050]

A. Absolutely.

Q. And did you have, in your capacity as inspector of the sawyers, opportunity to determine whether or not the sawyers were cutting the stumps at the proper lengths?      A. Yes.

Q. Why was that done?

A. Oh, I made complaints in the latter part part of,—

Q. Pardon me, we are getting ahead of the story. What difference does it make how the stump is cut?

A. It has to be cut according to the contract.

Q. Yes, I know.

A. And it has to be cut without waste.

Q. And if the stumps are cut too high, what happens?

A. It is a waste and a loss to the company.

Q. And did you check upon the sawyers to determine how high the stumps were cut?

A. That was one of my duties.

(Testimony of George F. Dunn.)

Q. Did the sawyers have instructions as to what height to cut the trees?

A. Yes; they had received instructions at the office. [1051]

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ARDEN DAVIS

previously sworn, was called as a witness by and on behalf of the Respondent Robinson, and further testified as follows:

Trial Examiner Hektoen: You have been previously sworn in this proceeding and have previously testified?

The Witness: Yes.

Direct Examination

By Mr. Hunt:

Q. Will you state your name?

A. Arden Davis.

Q. You are the same Arden Davis who has testified on at least two occasions heretofore in this hearing?

A. Yes. [1055]

Q. Where do you reside? A. Sandpoint.

Q. How long have you lived here?

A. 7 years.

Q. How long have you known Frank Robinson?

A. 7 years.

Q. Were you employed by Robinson 7 years ago?

A. Yes.

Q. In what capacity?

A. I was driving team first.

(Testimony of Arden Davis.)

Q. How long did you drive team for him?

A. From July until October.

Q. What year? A. 1933.

Q. What happened to you then?

A. I got my leg broke.

Q. And then after your leg began to heal, what did you do? A. I went to work in the office.

Q. For Robinson? A. Yes.

Q. And you have been in charge of the office for how long? Did you take charge of the office right away?

A. Yes, since February, 1934.

Q. And ever since that time, in February of 1934, you have been in charge of the office and have kept the books for [1056] Frank Robinson?

A. Yes.

Q. What was Mr. Robinson doing in the year 1939 in the Caribou Basin? A. Logging.

Q. Who for?

A. Well, he was a logging contractor, logging for the Long Lake Lumber Company.

Q. Who owns the equipment that is used in the logging operation? A. Mr. Robinson.

Q. Are you acquainted with James Brown, Jr.?

A. Yes.

Q. Has he been around the camp more or less the past few years? A. Yes.

Q. In your employment, in keeping the books for Mr. Robinson, do you have a record as to when the men go to work, when they work, and when they leave the operation? A. Yes.

(Testimony of Arden Davis.)

Q. When a man leaves the work, whether he quits or is discharged, who informs you of that fact?      A. He does.

Q. Who?

A. Either the man, or Mr. Robinson. [1057]

Q. Did Mr. James Brown, Jr. ever instruct you to pay off any man at your camp?      A. Never.

Q. Now, there has been more or less testimony up to now in this hearing, relative to certain Humbird Lumber Company men, and certain Long Lake Lumber Company men who came to that camp. Did men from the Humbird Lumber Company come to your camp from time to time?      A. Yes.

Q. For what purpose?

A. Looking after the Humbird Lumber Company interests.

Q. What were the Humbird Lumber Company interests in that camp?

A. Well, they owned the real estate and the timber before it was cut.

Q. And who were they selling it to?

A. Long Lake Lumber Company.

Q. On a stumpage basis?      A. Yes.

Q. At the present time, and during 1939, state whether or not the greater proportion of this tract of timber was still standing?      A. Yes, it was.

Q. What I am getting at, in the operations of Mr. Robinson, has he, or has he not, cut the greater proportion of the timber- [1058] land, the timber from which is being sold to the Long Lake Lumber Company?

(Testimony of Arden Davis.)

A. You mean the greater part has been cut?

Q. In 1939, was the greater proportion of the timber still standing, or had the greater proportion of it been cut? A. Yes.

Q. And as long as it is still standing, it is the property of the Humbird Lumber Company?

A. Yes.

Q. After the trees are felled and cut into logs, it becomes the property of the Long Lake Lumber Company?

A. After they are landed at the railroad.

Q. Who were some of the Humbird Lumber Company men that came up there? I don't mean by name, but in what capacity?

A. Their cruiser came up there.

Q. What did the cruiser do up there?

A. He checked up in the woods to see how much wood was down, about the clean-up, and where they skidded and cleaned up the logs.

Q. Why is it necessary to clean up?

A. They want to get the most value out of the timber, and for fire hazard, they don't want the timber scattered all over.

Q. And they didn't want any logs left in the woods after the logging in that particular vicinity had stopped; is that correct? [1059]

A. That is correct.

Q. Is it kind of customary for a gypo to leave some logs back in the corners?

A. If they are hard to cut, it is customary to leave a few, if you can get by with it.

(Testimony of Arden Davis.)

Q. If you can get by with it? A. Yes.

Q. And they checked up to see that the logs that had been fallen, had been skidded out?

A. That is right.

Q. Now, did the Long Lake Lumber Company have any man in there at any time that would check up on the Robinson job? A. Yes.

Q. What did those men do?

A. Well, they went over the whole territory the same as the Humbird Lumber Company man; they usually went with him.

Q. Lots of times they were together?

A. Yes.

Q. And their interests, you might say, were practically identical? A. Practically.

Mr. Walker: I will object to the testimony, because the interests are defined in the agreement; that is the best evidence.

Trial Examiner Hektoen: Well, the answer is already in. [1060] I don't think it makes any difference.

Q. (Mr. Hunt): Now, at the end of the season's operation, what did you do concerning the books of Robinson? A. What do you mean?

Q. Your books in that operation? What did you usually do around the end of the season?

A. Well, we closed them.

Q. And after the books were closed, did you have a reconciliation of your books with the books of the Long Lake Lumber Company? A. Yes.



(Testimony of Arden Davis.)

Q. Now, how many times did you do that?

A. Once a year.

Q. And did the Long Lake Lumber Company close their books so far as your operations were concerned? A. What do you mean?

Q. I don't mean to close them, but did they have a reconciliation, also?

A. Yes, so far as our office was concerned.

Q. That happened how often?

A. Once a year.

Q. Usually, what month was that?

A. Usually in January of the following year.

Q. What did that amount to, briefly? What did it consist of?

A. Well, it was a reconciliation. In other words, the statement after I closed my books might not have been in accord [1061] with the statement of the Long Lake Lumber Company pertaining to the F. D. Robinson account.

Q. And you reconciled your books with their books to see if you were in balance? A. Yes.

Q. I will ask you whether or not at any time any officials of the Long Lake Lumber Company ever inspected the books of Frank Robinson?

A. Never.

Q. But you did have a reconciliation in order to see if your accounts were agreed upon by the Long Lake Lumber Company and by Mr. Robinson?

A. Yes.

Q. In other words, you got together on the balances? A. Yes.

(Testimony of Arden Davis.)

Q. Now, in your employment with Robinson, did you have occasion to advertise some of his horses for sale?      A. Yes.

Q. And where were those advertisements carried?      A. In the local paper.

Q. Could you name them?

A. The Northern Idaho News, and the Daily Bulletin.

Q. And when did you first start advertising those horses for sale?

A. We ran an ad in 1938, and I think that we ran one in the [1062] winter of 1937 and 1938.

Q. Did you sell some of the horses in 1938?

A. Yes.

Q. And did you sell some in 1939?

A. Yes.

Q. State, if you know, the reason for the sale of these horses?

A. Mr. Robinson is replacing them with power equipment.

Q. After the horses were replaced with power equipment, horses were not used, or were not necessary in the operation?      A. That is right.

Q. You still have some horses?

A. We still have some.

Q. And they are for sale to anybody who wants them?      A. Yes.

Q. Now, Mr. Davis, there has been a little testimony here relative to some conversation between the Camp Committee and Mr. Robinson relative to several things; relative to cleaning the blankets,

(Testimony of Arden Davis.)

—clean blankets,—in the spring of 1939, or clean sheets. A. Yes.

Q. Did they have sheets available then in June of 1939?

A. Yes; I am not sure whether they were all there or not.

Q. Was there enough there to take care of the needs of the men in camp? [1063] A. Yes.

Q. If the men wanted clean sheets, what did they do?

A. They usually came to the office and asked for them.

Q. And could they get them? A. Yes.

Q. What was the condition of your showers in June of 1939?

A. Well, we didn't have any time,—that is, they were not working.

Q. Had you had them the year before?

A. Yes.

Q. And had you had clean sheets the year before at all times? A. Yes.

Q. Why weren't the showers working in June of 1939?

A. Well, they froze during the winter; the coil in the boiler was froze.

Q. It burst? A. Yes.

Q. And it had to be replaced? A. Yes.

Q. And the reason why, in the first week in June, the showers were not running was what?

A. We had not repaired them yet.

Q. Will you tell us the duties of a bull cook?

(Testimony of Arden Davis.)

A. Well, he is a fellow that gets kind of the dirty end of it.

Q. He is the most important man in camp?

[1064]

A. Yes. He gets wood for the cook house or the bunk house; sweeps out the bunk house,—

Q. Now, during all of the years of your operation, have you had a bull cook up there?

A. Yes.

Q. Did you have a bull cook in the spring of 1939? A. Yes.

Q. What about the lights in camp in the first week of June in 1939?

A. They were not working.

Q. Why not?

A. They had not been repaired.

Q. Now, how long had the camp been running the first week in June?

A. We had a few men in there in April.

Q. But your camp had not really gotten to going, is that right?

A. We had just what you would call a cedar camp,—a pole camp.

Q. Did you have lights there in 1938?

A. Yes.

Q. You had them in 1939?

A. Yes, after they were repaired.

Q. You have a local power plant there?

A. Yes. [1065]

Q. What does it consist of?

(Testimony of Arden Davis.)

A. It consists of a Model A Motor and a Generator.

Q. In other words, you generate your own power for the plant? A. Yes.

Q. And during the first week in June you had not gotten your motor and generator tied up?

A. That is right.

Q. But it was, later on? A. Yes.

Q. Now, there has been more or less testimony relative to the construction by Mr. Robinson of a dam and flowage at Colburn Creek. Who built that dam? A. Mr. Robinson.

Q. Under what arrangement?

A. That he should be reimbursed by the Long Lake Lumber Company for all expenditures.

Q. Did Mr. Robinson use some of his equipment on that? A. Yes.

Q. Was he paid for that? A. Yes.

Q. And did you run that through your books?

A. Yes.

Q. And was Mr. Robinson paid for the work that he did on that? A. Yes. [1066]

Q. Now, Mr. Davis, you were in camp practically every day during the first week of June, were you not? A. Yes.

Q. And made various trips to Sandpoint back and forth? A. Yes.

Q. What kind of weather did you have the first week in June? What were the conditions so far as rain was concerned?

(Testimony of Arden Davis.)

Trial Examiner Hektoen: Let us stipulate it was very rainy.

Mr. Hunt: Well, nobody has stipulated; we have not been able to get any stipulation.

Trial Examiner Hektoen: So far as this man's testimony is concerned?

Q. (Mr. Hunt): Did you testify yesterday as to the weather the first week in June?

Mr. Walker: I don't think anybody contends it was not rainy.

Trial Examiner Hektoen: I am sorry. Go ahead.

Q. (Mr. Hunt, continuing): State what the weather was at the camp the first week in June, 1939?

A. The first day or two was fair, and then it rained, and then it started raining the latter part of the week.

Mr. Walker: I didn't get the latter part of the answer.

(Thereupon the answer of the witness was read as above recorded.)

Q. (Mr. Hunt, continuing): Particularly during the 6th or 7th of June, what was the situation as to rain those days? [1067]      A. It rained.

Q. Now, Mr. Davis, your work did not confine you to the office, did it?      A. No.

Q. You were timekeeper, and went around the woods, and were required to know what went on in the entire operation, is that correct?      A. Yes.

Q. State whether or not it was practical to truck



(Testimony of Arden Davis.)

logs during the first week in June in Mr. Robinson's operation?      A. It was not.

Q. Why?      A. The roads were too wet.

Q. How much timber did Mr. Robinson have down, either unskidded in the woods, or on skidways, when the camp opened up in the spring of 1939?

A. 2,700,000-and some odd feet. I have forgotten the exact amount.

Q. Now, in the first week of June,—strike that. On the 6th day of June, 1939, approximately how many cedar poles were lying the woods?

A. 5009 poles.

Q. 5000 and how many feet?

A. Five thousand and nine poles.

Q. State whether or not at that time the making of cedar poles [1068] in the camp had been completed?      A. Yes, it had.

Q. Is it customary to make cedar poles before you cut the white pine or not?      A. No.

Q. From what land are the cedar poles cut?

A. The logged off land.

Q. And had Robinson in the first week of June, 1939, completed the cutting of all the poles remaining on the logged off land in his operation?

A. Yes.

Q. State how the camp opens up in the spring, and particularly with relation to the number of employes who go to work in the first few weeks, and the rapidity with which employes are put to work in the spring.



(Testimony of Arden Davis.)

A. Well, he generally tries to get in there as early as possible with a few men.

Q. All right. What do these few men do first?

A. Repair the roads.

Q. And then who goes to work?

A. You mean right from the start?

Q. Yes. How do the groups come in? Who comes in first?

A. The road crew comes in there first.

Q. All right, go on.

A. And then the few cedar men, and as the snow goes off, and when the snow gets down to the stump height,—the snow does [1069] not go off all at once,—he places a crew up there, enough necessary to cut the poles for that year, and then the pole skidders come. The last thing we do in there, before the polemakers are through, the poles are all made up, and then that crew is laid off. It depends on the weather and everything; and he starts logging just after that, as soon as possible.

Q. But you cannot take a whole crew in there and start in right now, start general operations in the spring? A. No.

Q. When is the peak of the employment? When are you hitting the ball the hardest?

A. August has been the peak.

Q. Well, then in August, the camp is in full swing? A. That is right.

Q. That is what was done in the year 1939?

A. Yes.

(Testimony of Arden Davis.)

Q. Were you in the court room when Mr. Leon Wise testified as to the conversation that he had with Mr. Robinson at the camp, in which he testified about going into the office and Robinson locking the door? A. Yes.

Q. Did you hear that testimony?

A. Yes, I heard that.

Q. Were you present at that time? [1070]

A. I was in the office.

Q. You saw what took place? A. Yes.

Q. State whether or not Mr. Robinson locked the door and put the key in his pocket?

A. He did not.

Q. Is there a key on that door from the inside?

A. No.

Q. What kind of a lock is it?

A. A Yale lock.

Q. What kind of a catch or lock does it have on the inside?

A. I guess you would call it a tongue; I don't know what you would call it. [1071]

Q. Did you hear the conversation between Mr. Wise and Mr. Robinson at that time?

A. Yes.

Q. I will ask you whether or not at that time, in the presence of yourself and Mr. Leon Wise, Mr. Robinson told Mr. Wise he would fire him and every other one working with him who had signed up "in your union," or words to that effect?

A. I can't remember that being said.

(Testimony of Arden Davis.)

Q. State whether or not at that time Mr. Robinson stated that he intended to shut the camp down as the result of union activities?

A. Not that I recall.

Q. Mr. Davis, do you remember when a jammer broke down, and the crew of that jammer were paid off, on or about June 6?      A. Yes. [1073]

Q. What happened relative to that jammer?

A. Well, I paid the crew off.

Q. Did the jammer break down, to your knowledge?      A. Yes, it broke down.

Q. And you paid off the crew?      A. Yes.

Q. Was that jammer subsequently repaired?

A. Yes, it was.

Q. When was it ready to go into operation again?

A. I don't just remember the date; it was two or three weeks.

Q. Now, had the cedarmakers in Mr. Robinson's camp completed all their work on June 6?

A. The makers?

Q. Yes.      A. Yes.

Q. Mr. Davis, on the 29th of June, there was a meeting in the office of Mr. Robinson, in the J & L Building, in which Robinson, yourself, myself, Mr. Roll, and Mr. Johnson and others were present? Do you remember that meeting?      A. Yes.

Q. Now, state whether or not an agreement was entered into by and between all concerned at that time to hold an election under the auspices of the National Labor Relations Board on July 6th? [1074]

(Testimony of Arden Davis.)

A. There was.

Q. State whether or not Mr. Roll and I left that meeting and went over to my office?

A. Yes.

Q. Did you come to my office later?

A. Yes, I did.

Q. Were you in the office at the time that Mr. Herbert Johnson came in?

A. I don't believe I was; I came in,—

Q. Let us put it this way: were you there when Johnson came back?

A. Yes, I was there when he came back.

Q. State what was said, after Johnson came back in.

A. As I remember it, Mr. Roll did most of the talking. And he came in and said, "I guess there won't be any election."

Q. What did Mr. Roll do then?

A. He put all of his stuff in his brief case and left.

Q. And was there an election held?

A. No. [1075]

Q. (Mr. Hunt, continuing) Now, Mr. Davis, how did you requisition funds from the Long Lake Lumber Company? You requisitioned funds from the Long Lake Lumber Company from time to time, when you needed them? [1077]

A. Yes.

Q. How did you do that?

A. By letter, or by phone.

Q. Did you have any regular periods during any months when remittances were made by the

(Testimony of Arden Davis.)

Long Lake Lumber Company to the Bonner County National Bank for Robinson's credit?

A. No.

Q. What did you do when you needed money?

A. We called up and asked for it.

Q. And did you get it?           A. Yes.

Q. Were there any regular agreed upon times when requisitions could be made?           A. No.

Q. When you needed money, you made a request, or a requisition, and you got it?

A. Yes.

Q. Do you have a requisition with you?

A. Yes.

Trial Examiner Hektoen: There will be a recess for ten minutes.

(Thereupon, at this time a short recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Hektoen: Proceed, Mr. Hunt.

Q. (Mr. Hunt, continuing) Mr. Davis, did you from time to time [1078] make requisitions upon the Long Lake Lumber Company?           A. Yes.

Q. For what purpose, generally?

A. Orders; orders to pay.

Q. Orders to pay?

A. And also orders for some parts.

Q. And did the Long Lake Lumber Company in pursuance of these requisitions pay some bills for Robinson?           A. Yes.

Q. And did you have a form book for making requisitions?           A. Yes.

(Testimony of Arden Davis.)

Q. And there has been some testimony, Mr. Davis, relative to the fact that on or about the 23rd of December, 1938, a check was paid by the Long Lake Lumber Company, payable to C. J. Gooby in the sum of \$735.94. Was such a requisition made?

A. Yes.

Q. Why?

A. Well, the requisition was to pay him off.

Q. Why did you make a requisition to the Long Lake Lumber Company to pay this amount of money to Mr. Gooby; what was it for?

A. We didn't have the money in the bank.

Q. What did Mr. Gooby do to earn that money?

A. He worked out there loading logs. [1079]

Q. Where? A. At the landing.

Q. At Samuels? A. Yes.

Q. Was that during the month of December, 1938? A. No, that was during October.

Q. State whether or not it was a clean-up of the loading for that year?

A. Yes; the pine was settled for the year.

Q. Handing you a requisition book, and particularly sheet 1954, I will ask you if that is the requisition that you have been referring to?

A. Yes; that is a carbon copy.

Q. This is a carbon copy? A. Yes.

Q. Where did the original go?

A. It went to the Long Lake Lumber Company.

Q. And you kept a copy? A. Yes.

Q. And they retained the original?



(Testimony of Arden Davis.)

A. Yes.

Q. Is this your signature on the corner (indicating)?  
A. Yes, it is.

(Thereupon a document was marked as Respondents' exhibit No. 12 for identification.)

[1080]

Mr. Hunt: We offer this in evidence.

Mr. Walker: No objection.

Trial Examiner Hektoen: It may be admitted.

(Thereupon the document heretofore marked Respondents' exhibit 12 for identification was received in evidence.)

RESPONDENTS' EXHIBIT No. 12

F. D. ROBINSON  
Sandpoint, Idaho

No. 1954

Date—Dec. 23, 1938

To—Long Lake Lumber Co.

Address—348 N. Wall St.

Gentlemen: Please enter our order for the articles listed below, subject to Instructions hereon.

Ship to—

Via—C. J. Gooby.                      Wanted—

Show above Requisition Number on all Invoices.

Quantity	Number	Description	Price
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Long Lake Lumber Co.

348 N. Wall St.

Please pay to the order of C. J. Gooby (\$735.94) seven hundred thirty-five and 94/100 dollars. Charge same to my account.

O K

J 115

F. D. ROBINSON  
By ARDEN DAVIS  
Purchasing Agent



(Testimony of Arden Davis.)

Q. (Mr. Hunt) Now, in response to the requisition described in Respondents' exhibit No. 12, did the Long Lake Lumber Company issue you a check?

A. Yes.

Q. And mailed it to F. D. Robinson?

A. Yes.

Q. What did you or Mr. Robinson do with it?

A. I gave it to Gooby.

Q. Was Robinson's account charged with the amount of this check? A. Yes.

Q. And were you charged, and was your account charged with all amounts paid out by the Long Lake Lumber Company at your request in accordance with the requisitions? A. Yes.

[1081]

#### Cross Examination

By Mr. Walker:

Q. Mr. Davis, I am calling your attention to your own testimony, that the peak of the logging season is usually in the month of August. At the peak of the season, approximately what is the number of employes engaged at Caribou?

A. In actual logging, I imagine it is close to 150.

Q. Were you present when Mr. Wise testified?

A. Yes.

Q. Did you hear all of his testimony?

A. I think I did.

Q. On cross examination, did you hear Mr. Wise state that [1121] the lock on the door may have been a night latch? A. Yes.

Q. Just prior to June 7, 1939, were the dozers working on the road? A. I think it was.

(Testimony of Arden Davis.)

Q. What do you mean by the term "reconciling your books with the Long Lake Lumber Company books"?

A. Bringing the accounts together.

Q. How did you do that?

A. We just go through the debits and credits back and forth between the Long Lake Lumber Company and F. D. Robinson.

Q. Where is that usually done?

A. In Spokane.

Q. Do you bring your books with you to Spokane?      A. Yes.

Q. And the entries in your books are referred to the entries in the Long Lake Lumber Company's books?      A. Not entry for entry, no.

Q. Generally speaking, that is the way in which reconciliation is made, is it not?      A. Yes.

Q. If your net balance would not compare identically with the net balance as carried on the Long Lake Lumber Company books, you would have to refer to the several items where the discrepancies lay? [1122]      A. Yes.

Q. Mr. Davis, did you hear the testimony of Mr. Brown, that there were just 81 trucking days in 1937?      A. Yes.

Q. And in the year 1937, were any of the sawyers, jammers or skidders, paid off during the period when the trucks were not operating?

A. Well, I don't recall whether they were paid off in full or not; there were days that they didn't work on account of rain.

Q. At no time in 1937 on account of rain was the camp vacated and all the men paid off; is that correct? A. That is correct. [1123]

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JAMES BROWN, JR.,

previously sworn, testified further in behalf of the Long Lake Lumber Company, respondent, as follows:

Direct Examination

Q. (Mr. Potts) Your name is James M. Brown, Jr.? A. Yes.

Q. And you have heretofore been sworn and testified as a witness for the Board? A. Yes.

Q. In your testimony, Mr. Brown, you described the duties which you performed in connection with the timber operations of the Long Lake Lumber Company, checking up on the logging operations. I merely wish to supplement what you have already told us by asking you if, during the years 1938 and 1939, you visited logging operations in this territory at which logs were produced by the Long Lake Lumber Company other than the Caribou Basin operation conducted by Mr. Robinson, and the other two or three which you mentioned in your direct testimony? [1147]

A. Yes.

Q. And what other operations did you go to in the course of your duties, visiting them in those years?

A. Well, the ones that I was connected with

(Testimony of James Brown, Jr.)

most of the time were the Spaulding operations up above Bonners Ferry on Mission Creek, and I had another job,—one was a yellow pine job, and one was a white pine job; and then the job of Graf's, who was located north of Fernwood, above St. Maries; and then another job that I had was Bundy's job.

Q. Where was that located?

A. That is just this side of Cabin City in Montana.

Q. Were these several operations which you have just mentioned being conducted at the same time Robinson's operation was being conducted?

A. Yes.

Q. And that is, during the years 1938 and 1939?

A. Yes.

Q. What is the fact as to whether or not you visited them in the performance of your duties, similar to those you performed by visiting the Caribou Basin operations?

A. It was in the same capacity, exactly.

Q. And did you do the same things?

A. Oh, yes.

Q. And was that your occupation and business in working for the Long Lake Lumber Company?

[1148]

A. Yes.

Q. Did you have anything to do with the conduct of any logging operations?      A. No.

Q. Have you been in the courtroom the greater

(Testimony of James Brown, Jr.)

portion of the time this hearing has been in progress?

A. Just about all the time.

Q. Have you heard the testimony of Leon Wise with respect to certain alleged conversations with you at different times in 1939 and 1938?

A. Yes.

Q. I wish to direct your attention to a conversation which Mr. Wise testified he had with you, which I now notice was sometime in August, 1937, in which the cost of an International Truck was being discussed, and some argument developed, some difference of opinion, as to what the cost of the International was; I will ask you if you recall any such conversation?

A. No, I don't recall it.

Q. You can't remember such an occurrence?

A. I can't remember it, no. [1149]

Q. (Mr. Potts) I direct your attention to an incident or conversation in which Mr. Wise said that you and, I believe, one Bart Cochrane were present,—a conversation had when Mr. Bart Cochrane was present, so Mr. Wise testified, which was near Colburn, and when you asked Wise why he and Ike Bonney had quit,—this being while he was working for Walt Brown, and this being after he had worked for Robinson; and he said, "Because we couldn't make it." To which you replied, "You are making it now; couldn't the man have something to do with it?" And then someone said, "If Wise says [1151] it couldn't be made, it couldn't be made."

(Testimony of James Brown, Jr.)

And then you said, "That is what I want to know. The set-up has got to be changed; that is what I am here for."

Did you have any such conversation with Mr. Wise, at any such time or place?

A. Not that I recall.

Q. Were you here at that time, or at any time for the purpose of changing any set-up?

Mr. Walker: Just a moment.

The Witness: Shall I answer?

Mr. Potts: Yes.

The Witness: What was the question?

Trial Examiner Hektoen: Read the question.

(Thereupon the pending question was read aloud as above recorded.)

A. No. You mean pertaining to logging?

Q. (Mr. Potts) Yes.

A. No.

Q. Did you have any authority to make any such changes? A. No.

Q. And in the fall of 1938, when Wise had attempted to turn around in the road, and had had some difficulty, and the conversation between you and he ensued, did you say to him, "I will see that a dozer comes up and punches some turnarounds in this road"? A. Not that I recall. [1152]

Q. Did you have any control over any dozer?

A. No.

Q. In the year 1938, shortly before the camp at Caribou Basin was closed down, did you state to



(Testimony of James Brown, Jr.)

Mr. Wise that you had come up to shut down the camp?      A. No.

Q. Or words to that effect?

A. I couldn't have.

Q. Well, did you?      A. No.

Q. And had you come up to shut the camp down?      A. No.

Q. Did you have anything to do with shutting that camp down?      A. Positively no.

Q. Were you in Sandpoint, Idaho, during the afternoon of Tuesday, June 7, 1939, the day on which Mr. Robinson shut down his camp in Caribou Basin in the morning, and were you, about five o'clock that afternoon, near or anywhere near the pool hall?

A. I don't recall,—yes, I recall that I was.

Q. You were there at that time?      A. Yes.

Q. Did you see Leon Wise, either in front of the pool hall, near the pool hall, in Sandpoint, or inside of the pool hall on that occasion? [1153]

A. I can't remember seeing him outside, but I remember very distinctly seeing him inside.

Q. Do you recall anything else that you saw inside of the pool hall on that occasion? [1153]

A. Of course, I am acquainted with lots of people in the pool hall.

Q. By the way, what is the name of that pool hall?      A. Eagle Pool Hall.

Q. Do you remember anyone in particular?

A. I remember this fellow Johnson.

Q. Herbert Johnson?      A. Yes.



(Testimony of James Brown, Jr.)

Q. The organizer? A. Yes.

Q. Do you remember seeing him there?

A. Yes.

Q. And did you have a conversation with Mr. Wise, either inside or outside of the pool hall at that time?

A. I remember he was on one side of me, if I remember correctly, and Johnson was on the other; and both of them had a lot of things to say to me, but I was mostly interested in getting a glass of beer.

Q. But there was a conversation between you and those two parties? A. Yes. [1154]

Q. And who was doing the talking?

A. They were.

Q. Did Mr. Wise have considerable to say, or was he quite talkative?

A. Well, I don't know how much he said; I was not interested at that time; I had some other things to think about, and I was interested in getting a glass of beer, getting something to eat and getting away.

Q. Well, at that time and place, and in that conversation did Mr. Wise tell you or say to you, in substance, "We had a meeting this afternoon and called a strike for the look-out and unfair labor practices of the Long Lake Lumber Company"; do you recall that?

A. Well, I don't know; I heard so many things that afternoon I don't remember whether he said it, or someone else.

(Testimony of James Brown, Jr.)

I heard that they were having lots of trouble, and anticipated some more. That is all I remember about it.

Q. Can you recall whether or not Mr. Wise made that statement, in substance or effect?      A. No.

Q. Did you say, in reply to such a statement, or at all, "You fellows were not locked out; I will tell you how this is: Frank owes us \$34,000, and owes the bank \$10,000. No chance to get the money back; the job is too large; there is too much friction. We will put him on a smaller job. We have a [1155] man coming from Oregon to take his place."

Did you make that statement, or anything in substance or effect as I have just stated it? Did you make such a statement?

A. If I made such a statement?

Q. Yes.

A. I don't remember making any such statement.

Q. And did Mr. Wise say, "Frank is under contract, and bonded for \$10,000," or anything to that effect?      A. No.

Q. And did you say, "He," referring to Robinson, "has no more contract than you have; he is just a gypo, the same as you are"; did you make that statement, or words to that effect?

A. No.

Q. Or did you state that, "We," referring to

(Testimony of James Brown, Jr.)

the Long Lake Lumber Company, "are not even incorporated in the State of Washington"?

A. No, I didn't say that.

Q. And did you at that time and place, either in front of or inside of the pool hall, say to Mr. Wise, or in his presence, "It was all right for you fellows to organize. Our mills are organized, and we have no trouble," or words to that effect?

A. I don't remember saying it. [1156]

Q. And did you state, "We can't operate with your kind of a union; you would wait until we get the timber down, and then tie us up, or burn us up while we are shut down." Did you make that statement?

A. I didn't make any such statement.

Q. And did you state, "We don't have to get men out of the State; we can get 300 right here," and did Mr. Wise ask, "Who?" And did you say, "Men on relief or WPA." Did you make such a statement?

A. I don't recall.

Q. (Mr. Potts): Did you, at this alleged conversation, at the time and place indicated, state to Mr. Wise, or in his presence, you didn't have to get men out of the State, that "We can get 300 men right here"? Or anything to that effect? [1157]

A. No.

Q. Did Mr. Wise then ask you, in substance, who you were going to get, or just, perhaps, did he say, "Who", and in reply to his question, did you state, "Men on relief or WPA. We don't need the timber." A. No.

(Testimony of James Brown, Jr.)

Q. And did you state, "We are going to reopen the camp with a different management, or another and different management, and on a smaller scale"?

A. No.

Q. And did Mr. Wise then ask, "Well, what about the five million feet that are down," and did you say, "Three and one third million. We will pay stumpage of about \$14,000. It doesn't mean anything to us"?

A. No.

Mr. Potts: You may examine.

#### Cross Examination

By Mr. Walker:

Q. Mr. Brown, do you recall whether or not during the day of June 7, 1939, you stated to anyone else, or had a conversation with anyone else,—

Mr. Potts: I will object to that as not proper cross examination. This is specific rebuttal as a part of our case, meeting certain testimony that has been offered as a part of the Board's case, and we have predicated this examination upon meeting the Board's case, and directed the examination [1158] to this particular conversation, and this alone; and we have opened up no other inquiry. Certainly, the rule that cross examination is confined to matters brought out on direct examination or connected therewith, applies. Such matters are not cross examination.

Mr. Walker: I didn't get my question finished.

Mr. Potts: I beg your pardon. I thought that you had. Very well.

(Testimony of James Brown, Jr.)

Q. (Mr. Walker): Was it your testimony that you did not at any time make a statement to anyone to the effect that if the men had a union of their own, or a union like the Long Lake Lumber Company, whatever the case may be, that it would be all right?

A. I don't remember ever making that statement.

Q. To anyone? A. That is right.

Q. At any time?

A. At any time or place.

Q. Do you know J. L. Finley?

A. Yes, sure.

Q. Did you see him at any time on the day of June 7, 1939?

A. Let me see. I saw him sometime, but I don't remember what day it was.

Q. Do you remember what he was doing just prior to the time the camp was shut down? [1159]

A. He was working on the landing.

Q. And do you recall where you saw him that day?

A. June 7, the day that the camp closed down?

Q. Yes.

A. I don't remember where I saw him.

Q. Do you recall whether or not you had a conversation with him that day?

A. Well, I don't recall. I remember having a conversation with him; I don't remember the particular conversations; I remember seeing him along

(Testimony of James Brown, Jr.)

in those days there; I can't place in my mind what it was.

Q. Do you recall what the conversation was?

A. I told you that I didn't recall talking to him.

Q. You don't remember seeing him that day?

A. I am trying to think of where it was, right now. It might have been on the landing.

Q. Did you make a statement to Mr. Finley on the afternoon of June 7, 1939,— [1160]

(Thereupon the question referred to was read as follows:)

“Did you have a conversation with Mr. Finley, on the [1162] afternoon of June 7, 1939, at the camp, at which Mr. Cecil Porter was present, when you stated, ‘If you fellows were organized into a union of your own, like the Long Lake Mill, we would recognize that union?’”)

A. Well, I don't remember any such conversation.

Mr. Walker: That is all.

Mr. Potts: That is all.

(Witness excused.)

Mr. Hunt: The respondent Robinson rests.

Mr. Potts: The respondent Long Lake Lumber Company rests.

Mr. Walker: Mr. Miller, please.

D. D. MILLER,

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Walker:

Q. Will you state your name?

A. D. D. Miller.

Q. You reside in Spokane?           A. Yes.

Q. What is your position?

A. Staff Assistant in the Commercial Department of the Pacific Telephone & Telegraph Company.

Q. What are your duties in that regard, Mr. Miller?

A. Statistician, working on reports, and so forth.

Q. Do you have under your direction, in the preparation [1163] of your statistics, the records of long distance calls which have been placed by subscribers to the service of your employer?

A. They are not in my possession, no. Those records are in the possession of the manager of the company, whom I represent today.

Q. You have come here today at the request of the manager of the Spokane Office?           A. Yes.

Q. And the long distance records are in the possession and control of the manager of the Spokane office?           A. Yes.

Q. And the records which you have brought with you today have been delivered over to you at



(Testimony of D. D. Miller.)

the direction of the manager of the Spokane office?

A. Yes.

Q. May I have them, please? A. Certainly.

Mr. Walker: May we go off the record for a moment?

Trial Examiner Hektoen: Do you need a five-minute recess or such a matter?

Mr. Walker: Yes, I believe so.

Trial Examiner Hektoen: We will be in an informal recess for five minutes.

(Thereupon, at this time a short recess was taken, after which proceedings were resumed as follows:) [1164]

Q. (Mr. Walker): Mr. Miller, can you state from your records whether or not there was a telephone call placed from a telephone listed as Riverside 2434, in Spokane, Washington, to Sandpoint, Idaho, at about 6:52 p.m. on June 6, 1939?

Mr. Potts: We object to this as incompetent and irrelevant and not the best evidence. The records are the best evidence.

Mr. Walker: I intend to produce the records.

Mr. Potts: Counsel is asking for oral testimony.

Trial Examiner Hektoen: Is there any way that it can be gotten at from the records? I take it that the records will have to be explained.

Mr. Walker: That is correct.

Trial Examiner Hektoen: Upon counsel's statement that the records will be put in, you may proceed.

(Testimony of D. D. Miller.)

Q. (Mr. Walker, continuing): Do you recall the question? A. Yes, sir; I believe so.

Mr. Walker: May I state one thing further? When I said that the records would go in, Mr. Miller has said that he doesn't want the originals to go out of his possession, but the record which he has in his possession will have to be explained, and if you wish copies of them for that purpose, or for the purpose of the record, or have the original records read into the record, it makes no difference.

Mr. Potts: I don't care how they go in. I think the testimony should be from the records. [1165]

Trial Examiner Hektoen: I understand the testimony is from the records.

Mr. Potts: It is oral testimony. Counsel has now said that he does not expect to offer the records.

Mr. Walker: That portion of the records can be introduced by reading them into the record.

Trial Examiner Hektoen: I take it that can be done.

Mr. Potts: I object to its materiality unless it is connected with some matter.

Mr. Walker: Now, do you remember the question?

The Witness: I think I have forgotten.

Mr. Walker: Will you read the question, please?

(Thereupon the question referred to was read as follows: "Mr. Miller, can you state from your records whether or not there was a telephone call placed from a telephone listed as

(Testimony of D. D. Miller.)

Riverside 2434, in Spokane, Washington, to Sandpoint, Idaho, at about 6:52 p.m. on June 6, 1939?"

A. Yes, sir.

(Thereupon a telephone toll ticket was marked Board's exhibit 10 for identification.)

Q. (Mr. Walker): I hand you what has been marked as Board's exhibit 10 for identification and ask you what that is?

A. That is what is termed as a toll ticket, or a record of calls that are being placed from one exchange to another.

Q. What is the information that is set out in that record? [1166]

A. The date, the place from which the call is placed,—that is, the city; the telephone from which it is placed,—the city or town the call is placed from; as well as the city or town to which it is placed; the telephone number of the place to which the call is placed,—that is, the called point; the name of the person called; filing time, at which the call is placed, the number of minutes of conversation; and the class of conversation which is determined by whether or not it is a person-to-person call, or a station-to-station call.

A station-to-station call is a call made to a certain number without the person being named who is called.

Q. Does it likewise show the time when the conversation begins?           A. Yes.

(Testimony of D. D. Miller.)

Q. Will you explain that, please?

A. On the reverse side of the ticket, there are three dials stamped by a machine at the switch-board; one dial indicates the hour and the minute that the conversation started; the other two dials record the number of minutes and seconds of the conversation; and that is all.

(Thereupon a telephone toll ticket was marked Board's exhibit No. 11 for identification.)

Q. (Mr. Walker, continuing): Mr. Miller, I hand you what has been marked as Board's exhibit 11 for identification, and ask [1167] you what that is?

A. That is a call placed on June 6.

Mr. Potts: I can't hear the witness.

Q. (Mr. Walker): What has been marked as Board's exhibit 11 for identification is a record of a long distance call, is that correct?

A. Yes.

Q. Does it show the date upon which the call was placed?      A. Yes.

Q. And the city from which the call originated?

A. Yes.

Q. And the listing from which the call was made?      A. The telephone number, yes.

Q. Does it also show the individual who placed the call?      A. Yes.

Q. Now, does it show the place to which the call was directed?      A. Yes.

(Testimony of D. D. Miller.)

Q. And does it show whether or not the call was directed to any listing at the called city?

A. Yes.

Q. Does it show what individual received the call?

A. Yes.

Q. Is the filing time indicated thereon?

A. Yes. [1168]

Q. Is the duration of the call indicated?

A. Yes.

Q. I call your attention to the entries under the area designated as "Special Instructions". Will you relate what that refers to?

A. It was docketed from the "Spokane City Club".

Q. How are the special instructions put on the call docket? Who put the special instructions on there?

A. The operator who was handling the call.

Q. And the operator put the instructions on there pursuant to the information given by the person who was making the call; is that correct?

A. Yes.

Q. Will you explain what the symbols and letters mean which are set out on the last entry on the face of what has been marked as Board's exhibit 11 for identification?

A. The first symbol is "D. A.", indicating there was no answer at the called point; "Don't answer". It indicates the time, which is 7:21 p.m.

Q. And what is on the succeeding line?

(Testimony of D. D. Miller.)

A. "A.G.", which means "Try again". The other initial "A.Y.", means "Talk to anyone". Then there is, "Should Answer. Try Again. 7:21."

Q. Does Board's exhibit 11 indicate whether or not the call was completed? [1169]           A. Yes.

Q. And does it indicate when the conversation commenced?           A. Yes.

Q. Does it indicate when the conversation ended?           A. Yes.

Mr. Walker: I will offer in evidence what has been marked as Board's exhibits 10 and 11 for identification.

Mr. Potts: To which counsel objects on the ground that it is incompetent, irrelevant and immaterial; it does not tend to prove any issue in this case, nor has it been shown to be connected in any way with any matter in controversy.

Mr. Walker: If for no other reason, it certainly is competent for the purpose of testing the credibility of the witnesses.

Trial Examiner Hektoen: It will be admitted.

(Thereupon the documents heretofore marked Board's exhibits 10 and 11 for identification were received in evidence.)





DATE JUN 6 1939 I A OUT

PLACE FROM STATE  
SPOKANE, WASH.

TEL. NO. Riv 2434

PERSON

SPEC. INST.

ORIGIN TO STATE

COLLECT TRF. NO. (18 FID)  
PAYEE Frank Robinson

ADDRESS NAME

BLIND TIME 6-52 p	OPERATION 54
TOLL CENTER	RATE 5 0
TERM. VIA	REPORT
ROUTE Coal	CLASS 125
ALT. ROUTE	

56 th R #10

P.M.



NATIONAL LABOR RELATIONS BOARD  
 BOARD PETITIONER EXHIBIT NO. 10  
 CASE NO. 538 RESPONDENT NEW YORK  
 IN THIS MATTER OF Long Lake, Inc. v  
 DATE 3-20-40 WITNESS Muller  
 DANIEL W. NELSON OFFICIAL REPORTER  
 BY Nelson

670



DATE JUN 6 1934 (113) 1 A OUT

PLACE FROM SPOKANE, STATE WASH. (5174)

TEL. No. 2434

PERSON J. M. Brown

SPEC. INST. Mt. Spokane City Club

Ma 4333

PLACE TO sd pt STATE

COLLECT TEL. NO. 18711

PERSON Frank

ACCEPTED Robinson

ADDRESS NAME Frank Robinson

FILING TIME 11:00 OPERATOR 40

TOLL CENTER MINS. 7 CHARGE 3m

TERM. VIA REPORT MESSENGER

FIRST ROUTE

ALT. ROUTE 115

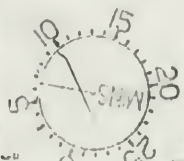
Da 11:12 pm  
ag ay should  
and try again 21

Da 12:22  
(752) ag 13  
ag 735p

P.M.



tb39  
" 42



1911:4 11:13:7



NATIONAL LABOR RELATIONS BOARD

EXHIBIT NO. 11

CASE NO. 538

IN THE MATTER OF J. M. Brown & Co

DATE 5-10-40

DANIEL W. ROSS, SPECIAL REPORTER

BY Nelson



(Testimony of D. D. Miller.)

Mr. Walker: It is agreeable with counsel that, in lieu of the original standing in the record, photostatic copies may be substituted, the photostatic copies to cover both sides of both exhibits.

Trial Examiner Hektoen: Very well.

Cross Examination

By Mr. Potts:

Q. Referring to Board's exhibit No. 10, the [1170] first ticket about which you were interrogated, I will ask you to state whether or not that ticket discloses who the person was who placed that call? A. No, sir.

Q. All that it discloses with reference to who made the call, or who initiated the call, is the telephone number from which it was placed?

A. That is right.

Q. Now, you stated that the stamps on the back indicate how long the call lasted? A. Yes.

Q. How long did that indicate that the call indicated by that ticket lasted?

Trial Examiner Hektoen: That is exhibit No. 10?

Mr. Potts: Still Exhibit No. 10.

A. 4 minutes and 30 seconds.

Q. (Mr. Potts): On the face of the ticket, Board's exhibit No. 10, is an item reading "charge", which is printed and a part of the form, and in the space in which that word appears are the figures "125". What does that "125" mean?

A. \$1.25.

(Testimony of D. D. Miller.)

Q. That means the charge for that call was \$1.25? A. That is right.

Q. What time does exhibit No. 10 show that call was placed? A. 6:25 p.m. [1171]

Q. When does it show it was completed?

A. About 6:58.

Q. Was that call at a time of day which brought it within the regular day rate for a long distance toll? A. Yes.

Q. Now, referring to Board's exhibit 11, what time does this ticket indicate or show that this call was placed? A. 7:18 p.m.

Q. Does it indicate that there was a delay in completing the call? A. Yes.

Q. And at what time was it completed?

A. 7:43.

Q. Now, was that call placed and made at a time of day when it took the day rate?

A. No, sir.

Q. At what hour did the rate change?

A. 7:00 p.m.

Q. And if the call is placed before 7:00 p.m. and not completed until after 7:00 p.m., does it take the night rate, or the evening rate? A. Yes.

Q. Now, as to the length of that call, it is a fact that there was a delay in putting through the call, is it not? A. Yes. [1172]

Q. Does the fact that there was a delay in putting through the call add to the length of the call? That is with respect to the charge to the subscriber? A. No, sir.

(Testimony of D. D. Miller.)

Q. Well, when there is difficulty in making a connection, with the party called, isn't there more charged or a greater proportionate charge?

A. No; that is included in the person-to-person rate; in the person-to-person call, it is understood that some calls cannot be completed immediately, and a higher rate applies to that type of call.

Q. And isn't all the time that the operator uses to get the call charged against the subscriber?

A. No, sir.

Q. Do you mean to tell me that the operator does not fix the commencement of that call until the contact is actually made?      A. Right.

Q. And ends it when the contact ceases?

A. As indicated by the ticket there (indicating).

Mr. Potts: That is all.

#### Redirect Examination

By Mr. Walker:

Q. I have one question. Mr. Miller, have you determined who has the listing of Riverside 2434 in Spokane, Washington? [1173]

A. That was J. M. Brown.

Mr. Walker: That is all.

Mr. Potts: That is all.

Trial Examiner Hektoen: Thank you, Mr. Miller.

(Witness excused.) [1174]



## ARDEN DAVIS

recalled as a witness by and on behalf of Respondent Robinson, being already duly sworn, further testified as follows:

(Thereupon a document was marked Respondents' Exhibit 13 for identification.)

## Direct Examination

By Mr. Hunt:

Q. Mr. Davis, you are the Arden Davis who testified in this case heretofore? A. I am.

Q. The bookkeeper for Frank D. Robinson?

A. I am.

Q. It has been stipulated that the instrument marked as Respondents' exhibit 13 shall be admitted in evidence. I will ask you what that exhibit is?

A. That is a monthly statement of the log output, and the woods inventory.

Q. At the Caribou Basin?

A. At the Caribou Basin.

Q. Does it show the amount of logs in the woods in December of 1938? A. Yes, it does.

Q. What is that figure?

A. 1,541,380 feet. [1218]

Q. Now, does it show the number of logs sawed up to July 1, 1939? A. Yes, it does.

Q. And what is that figure? A. 1,350,590.

Q. That makes up a total of 2,891,890?

A. Correct.

Q. In the month of June,—does it show the amount of logs that were sawed in June?

(Testimony of Arden Davis.)

A. No. They are included in the number shown sawed to July 1, 1939.

Q. Can you tell me approximately how many logs were sawed in the month of June, 1939?

A. For just the few days; I imagine it was 50,000; most of it was in May.

Q. Can you tell me whether or not any logs were sawed between June 7 and June 30, 1939?

A. No, there was not.

Q. How many thousand feet of logs were hauled during June?      A. 181,360 feet.

Q. Then you have a figure of 2,710,530 feet; that is, logs lying the woods on June 30, 1939?

A. Yes.

Q. Does this also show the poles in the woods?

A. Yes. [1219]

Q. How many of them?

A. 5009 pieces.

Q. How many of the poles were skidded in the spring?      A. 4,400 pieces.

Q. You have a figure of 609 poles left to skid. What does that mean?

A. They were not skidded; 4,400 were skidded, and these had not been skidded.

Q. What is this reference to Marska, 5,860 lineal feet?

A. That was a couple of truckloads, and that is out of the 5,009 pieces total.

Q. That represents 5,860 feet of cedar poles?

A. Lineal feet, yes.

(Testimony of Arden Davis.)

Trial Examiner Hektoen: What other kind of feet are there?

Mr. Hunt: I think that I will bring that out.

Trial Examiner Hektoen: All right.

Q. (Mr. Hunt) Poles are sold by the length?

A. Yes.

Q. And their lengths are so many 18's, 20's, 30's, 35's, and so on? A. Yes.

Q. And that varies,—the price varies on those poles, depending on the length and the diameter?

A. Yes.

Mr. Hunt: That is all. [1220]

#### Cross Examination

By Mr. Walker:

Q. The figure of 2,710,530 feet in the woods includes the logs down, logs skidded and logs decked?

A. In the woods, yes.

Q. Approximately what was the inventory of the logs in the woods on December 31, 1937?

Mr. Hunt: 1937?

Mr. Walker: Yes.

A. I can't tell you that, offhand.

Q. (Mr. Walker) About a million and a half?

A. I would imagine about that.

Q. Approximately what was the total amount of board feet of logs in the woods as of December 1, 1936?

A. Well, it was approximately the same; it might vary some, but I can't remember.

Mr. Walker: That is all.

(Testimony of Arden Davis.)

Trial Examiner Hektoen: Respondents' exhibit 13 is admitted on stipulation?

Mr. Walker: Yes.

Trial Examiner Hektoen: It is admitted in evidence on stipulation.

(Thereupon the document heretofore marked Respondents' exhibit 13 for identification was received in evidence.)

Mr. Hunt: That is all. [1221]

Mr. Walker: Mr. Burford.

(Witness excused.)

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A. J. BURFORD,

previously sworn, was recalled as a witness by and on behalf of the Board, and further testified as follows:

Direct Examination

By Mr. Walker:

Q. Your name is A. J. Burford? A. Yes.

Trial Examiner Hektoen: You have testified before?

The Witness: Yes.

Trial Examiner Hektoen: And you were sworn at that time?

The Witness: Yes.

Q. (Mr. Walker, continuing) Mr. Burford, you were a member of the union committee which called on Mr. Robinson at his office, at which time neither Mr. Johnson nor Mr. Hunt were present; is that correct? A. Yes.

(Testimony of A. J. Burford.)

Q. Were you present and heard Mr. Robinson's testimony relative to that meeting?

A. I don't believe I was.

Q. Will you relate whether or not the committee which called on Mr. Robinson at that time had with it the cards which have been admitted here as exhibit 5?

Mr. Hunt: Pardon me a minute. May we have the date fixed?

Mr. Walker: No one has been able to fix it yet. [1222]

Q. (Mr. Walker) Can you fix the date?

A. No, not exactly.

Q. Can you fix it approximately?

A. It was somewhere around the 23rd.

Mr. Hunt: Of June?

The Witness: Yes.

Trial Examiner Hektoen: Well, this is the same meeting that has been testified to.

Mr. Hunt: When Mr. Hunt and Mr. Johnson left?

Mr. Walker: No. The meeting at which neither Mr. Hunt nor Mr. Johnson were present at any time?

Trial Examiner Hektoen: That is what I meant.

Mr. Hunt: I am just trying to identify it in my mind. Mr. Robinson testified that the committee did not meet upon him for that purpose. Now, if that is the meeting, let us get the date, and the approximate time and place it was, and who was there.

(Testimony of A. J. Burford.)

Trial Examiner Hektoen: Was it about June 23?

The Witness: June 23, about.

Mr. Walker: I said, in Mr. Robinson's office. This meeting is in contradistinction to the one when you left Mr. Robinson's office.

Trial Examiner Hektoen: There are two meetings, one at which Mr. Hunt and Mr. Johnson were never present, and one in [1223] which they withdrew?

Mr. Walker: That is right.

Q. (Mr. Walker) Will you state whether or not the committee had with them at the time of that meeting, the cards which have been introduced in evidence and marked as Board's exhibit No. 5?

A. Yes, we did.

Q. Was there any discussion at that time relative to the holding of a card check?

A. I don't believe there was.

Q. What was discussed at that meeting?

A. Oh, union and working conditions.

Q. And there was a general discussion between the committee and Mr. Robinson? A. Yes.

Q. And who were the members of the committee who were present at that meeting?

A. Mr. Wise, Mr. Moore, Mr. Smith, Mr. Garvin, and myself.

Q. Was there any discussion at that time regarding the holding of an election?

A. I don't believe there was.

Q. Mr. Burford, did you work at Caribou throughout the month of June, 1937?

(Testimony of A. J. Burford.)

A. Not throughout the month, no.

Q. What occurred? [1224]

A. The camp was shut down on the morning of June 7.

Q. You must have misunderstood my question. Did you work at Caribou throughout the month of June, 1937? A. Yes.

Mr. Walker: That is all.

Mr. Hunt: That is all, Mr. Burford.

(Witness excused.)

Mr. Walker: Mr. Wise, please.

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LEON WISE,

previously sworn, was recalled as a witness by and on behalf of the Board, and further testified as follows:

Trial Examiner Hektoen: Your name is Leon Wise?

The Witness: Yes.

Trial Examiner Hektoen: You testified before in this hearing?

The Witness: Yes.

Trial Examiner Hektoen: You were sworn at that time?

The Witness: Yes.

Direct Examination

By Mr. Walker:

Q. Mr. Wise, were you a member of the Union Committee which called upon Mr. Robinson at his



(Testimony of Leon Wise.)

office, at which time neither Judge Hunt nor Mr. Johnson were present?      A. I was.

Q. At that time,— [1225]

Mr. Hunt: (Interposing) Will you fix the time and place, please?

Q. (Mr. Walker) Where did you meet at that time?      A. At Mr. Robinson's office.

Q. And can you recall what date it was?

A. It was along the latter part of June.

Trial Examiner Hektoen: Do you agree with Mr. Burford's estimate?

The Witness: That was pretty close. I wouldn't say the date.

Q. (Mr. Walker, continuing) Was there a discussion that day?      A. Yes.

Q. What was the discussion?

A. Well, I could reconstruct it almost word for word all the way through, if you want it that way, or how do you want it? I can give you almost everything that was said. I did all the talking,—Robinson and I, and if the Committee can't verify it, why,—

Q. Well, now, was there a discussion about the holding of a card check at that time?

A. There was.

Q. How did that come up?

A. Well, I insisted all the time that the committee and Mr. Robinson would get together, and we could settle the whole thing. I took the cards with me to that meeting, and we were [1226] going to make a supreme effort to settle it, and thought

(Testimony of Leon Wise.)

it would settle it that day; I knew Frank's attitude at the camp and at that meeting, and I knew that if he still felt that way, we still could settle it. So, we brought up a few minor things, like, Frank had refused to speak to us since that time; he said he hadn't done it intentionally, and then I asked him about his attitude and the way he felt then, and the way he was when we held the meeting, and why.

Q. Well, now, how did the discussion of the card check arise?      A. I was leading up to that.

Q. All right.

A. So I told Frank that, so far as I was concerned, if it was a personal grudge, I would step out of the picture, and I would never ask for a job again, and would never bother him again, and all the committee said the same thing.

Frank said, "I haven't got a thing; my hands are tied; I can't say a thing." I said, "Let's get the cards checked against the payroll; let's have it over with. We are not asking you for anything but union recognition." I said, "We are not trying to hurt you; we are trying to help you; we always have." Frank said, "You haven't got all the men." I said, "We don't have all the men that are in the cards." I said I knew that, and then I said that I had two cards that I would give him, that we didn't want them in there. I said, "I will give them to you; we don't want them. We will give them to you." [1227] And Frank said, "I can't use them, either."

Q. Were the cards checked?      A. No.

(Testimony of Leon Wise.)

Q. Was there a discussion about an election?

A. No.

Q. Were you on the Caribou Road the day when Mr. Rapp, Mr. Thurlow and Mr. Asher came up there?      A. I was.

Q. Was there a discussion about union recognition at that time?      A. There was.

Q. Did the committee or yourself have the cards which have been introduced in evidence here as Board's exhibit 5, at that time?      A. We did.

Q. What was said about the holding of a card check at that time?

A. Well, we offered to hold a card check right there, or an election, right in the middle of the road, with the whole membership present.

Q. To whom did you make that offer?

A. To Mr. Robinson and Rapp.

Q. Did he reply to that?      A. Yes.

Q. What did he say? What did Robinson say? [1228]

A. He said, "I will not recognize the union."

Mr. Walker: That is all.

### Cross Examination

By Mr. Hunt:

Q. You had the card when you were in Robinson's office?      A. Yes.

Q. You had the cards when you were at the bridge when Rapp was there?

A. Johnson had them there.

Q. You had them at the camp?

A. I had them at the office.

(Testimony of Leon Wise.)

Q. At the office in camp?

A. No, not in camp.

Q. Oh, the office was in Sandpoint?

A. Yes. You know that.

Mr. Hunt: That is all.

(Witness excused.)

Mr. Walker: Mr. Finley.

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J. L. FINLEY

called as a witness by and on behalf of the Board, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Walker:

Q. State your name. A. J. L. Finley.

Q. Where do you reside? [1229]

A. At the present time, I am at 1213 East 69th Street, Seattle, Washington.

Q. Prior to that, where had you resided?

A. Sandpoint, Idaho.

Q. What is your occupation, Mr. Finley?

A. Well, for the last 8 years, up until 1939, I have been employed by the Forest Service.

Q. In 1939, were you employed there? First, who were you employed by?

A. The Long Lake Lumber Company, for Mr. Frank Robinson.

Q. What work did you do that year?

A. I unloaded trucks at the landing.

(Testimony of J. L. Finley.)

Q. Do you recall the date when you first started to work?      A. I do.

Q. What date was that?

A. The fifth of June.

Q. And did you work that day? You started to work on the fifth?      A. Yes.

Q. Did you work the next day, on the 6th?

A. Yes, we worked until the afternoon of the 6th. We had landing work to do; there was not many trucks coming in.

Q. Just a moment. Did you learn of a union meeting that was held at camp along in June of 1939?      A. Not until the next morning. [1230]

Q. Did you work any that day, the next day following the time when the union meeting was held?      A. I didn't get the question.

Mr. Walker: Will you read it please?

(Thereupon the pending question was read aloud by the reporter as above recorded.)

A. No, I was on the job, and there was no trucks coming down; they moved from the S & I landing to the Great Northern; and I met the men coming down, and they notified us there would be nothing more to do.

Q. Now, after the men told you that, what did you do?

A. My partner and I took our tools back to camp.

Q. And when you got to camp, did you see anyone?      A. I did.

(Testimony of J. L. Finley.)

Q. Whom did you see up there?

A. I talked with Mr. Robinson and Jim Brown, Jr.

Q. Where did that talk take place?

A. I guess you would call it the bunkhouse; it was not in the office; it was where Frank and Jim stayed,—in a little house.

Q. What was said at that time?

A. Well, I asked what was going on, naturally, and they told me, first one and then the other,—I don't remember which one,—they said there was a strike pulled the day before; the men asked for \$4.80 minimum, and general camp [1231] improvement, and they had agreed to give that to the men. They said that then, the next morning, some of our committee,—I don't remember it word for word, but they said that they wanted a guarantee of \$6 a day for sawyers, and \$7 for gypos; and he said that he could not operate at that, so he had shut the camp down.

Q. Was there any discussion at that time about any particular union?

A. Well, Jim Brown, Jr., he said, "We have a union in Spokane. Our mills are organized of local fellows. If you fellows had an organization of that kind amongst yourselves, we would recognize that sort of a union."

Q. Do you know what kind of an organization exists at the Long Lake Lumber Company mill at Spokane?

(Testimony of J. L. Finley.)

A. No. The way I understood it, it was something like the 4-L Union.

Mr. Hunt: I will object. The witness has already said that he doesn't know; he is just guessing at it.

Trial Examiner Hektoen: All right.

Q. (Mr. Walker): Was there any discussion about the future employment at that time?

A. Well, I was interested in work; I was out of work, and I wanted to work, and I asked Jim and Frank, both, if they continued to operate in this country or anywheres else, that I would like work; and they both told me that if they operated [1232] anywhere, or could use me, they would give me work.

Mr. Walker: That is all.

#### Cross Examination

Q. (Mr. Hunt): And did you go back to work later on?      A. Yes.

Q. And you worked for Robinson from about the 19th of July until you were hurt on the 24th,—on the 21st,—of September?      A. Yes.

Q. At that time, you broke a bone in your foot?

A. Yes.

Q. And you have been laid up ever since?

A. Yes, I have been laid up; well, I am able to work now.

Q. But you couldn't go back to work during the season of 1939?



(Testimony of J. L. Finley.)

A. No. I was not able to go back to work during the period of their operations.

Mr. Hunt: That is all.

Mr. Walker: That is all, Mr. Finley. Thank you.

(Witness excused) [1233]

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JAMES M. BROWN, SR.,

previously sworn, was recalled as a witness by and on behalf of the Respondent Long Lake Lumber Company, and further testified as follows:

Trial Examiner Hektoen: You have been previously sworn, Mr. Brown?

The Witness: Yes. [1247]

Direct Examination

Q. (Mr. Potts): You are the same James M. Brown who testified on behalf of the respondents previously in this hearing? A. Yes. [1248]

Q. Do you recall the construction of a jammer here in Sandpoint at the Humbird Blacksmith Shop, sometime in the winter or early spring of 1937? A. Yes, I do.

Q. Did you go to the blacksmith and observe the construction of the jammer while it was in progress? A. Yes, I did.

Q. How many times, Mr. Brown, do you think?

A. Oh, I would imagine twice.

(Testimony of James M. Brown, Sr.)

Q. If you were in Sandpoint and had time, did you take advantage of it to see it?

A. If I was in Sandpoint, I went to see it.

Q. Were you interested in the construction of that jammer?           A. Yes.

Q. Was it a new proposal?

A. It was an innovation to everyone.

Q. In what respect?

A. It was a double drum jammer; faster than anything that we [1252] had had heretofore.

Q. If it was successful, was it designed to be more efficient in the skidding of logs?           A. Yes.

Q. Were you interested in finding out whether such a jammer could be made successful?

A. Very much so.

Q. And did that interest have any particular reference to the Caribou Basin job as distinguished from any other logging operations?

A. I was interested in it from the standpoint of all logging operations.

Q. Who was actually in charge of the construction of the jammer, the man who had the brains?

A. Kenneth Critchell, entirely.

Q. And did you make the remarks, or do you recall making remarks at one of those visits, that you wanted to see a jammer that would stand up, or words to that effect?

A. I don't remember, but I hope I did.

Q. That is the way you felt about it?

A. That is the way I felt about it.

Mr. Potts: That is all.

(Testimony of James M. Brown, Sr.)

Cross Examination

Q. (Mr. Walker): Was it the situation that Mr. Critchell had the brains and Mr. Doyle the brawn? [1253]

A. I think, as I followed it from my observation, Mr. Critchell was the one who designed it, and was the only one capable of furnishing the motive power for building it.

Q. Doing what?

A. Giving the directions for building it.

Q. What do you mean by "Motive power"?

A. I mean the direction for building it; he designed it, the greater part of it, in conjunction with Mr. Robinson.

Q. You mean that the double drum skidder is the brain child of Mr. Critchell?

A. That particular one, yes.

Q. But he is not the originator of the double drum skidder?

A. Well, I wouldn't say that; there are many different kinds; I wouldn't say that, no.

Q. Double drum skidders have been used for quite a while prior to that?

A. Not quite a while; at least, I had never seen one.

Q. You mean that 1937 was the first year that a double drum skidder was used in logging operations anywhere?

A. I didn't say that. [1254]

Q. (Mr. Walker): The Long Lake Lumber

(Testimony of James M. Brown, Sr.)

Company had had experience prior to that time with what type of jammer, or skidder?

A. One that had a single drum; I think we had tried one that wouldn't work,——

Q. You didn't have a doubled rum?

A. We started one, and it didn't work.

Q. On this particular job that Mr. Critchell was working on, that was an attempt to improve on the prior one?

A. No; it was a different one entirely. [1255]

Q. But the construction work that Mr. Critchell was undertaking on this particular double drum skidder or jammer was an attempt to improve upon the prior one?

A. No, it was not.

Q. Let me finish. The work that Mr. Critchell was doing on this particular drum was an attempt to improve upon the prior double drum that you had had?

A. No, sir.

Q. The prior double drum had not proved practical or feasible, isn't that true?

A. I don't think,—the double drum I am talking about,—if it is the same one I am talking about,—Mr. Critchell had never seen it.

Q. That is correct. The prior double drum had never proved practical or feasible?

A. It never was completed.

Q. It never did operate? A. That is right.

Q. It was junked? A. Yes.

Q. And the particular double drum Mr. Critchell was working on was an attempt to remedy the defect on the previous double drum jammer?

(Testimony of James M. Brown, Sr.)

A. Mr. Walker, I have answered it three times, "no", to the same question. [1256]

Q. What was wrong with the prior double drum?

A. I don't know.

Q. Did you ever learn why it didn't operate?

A. No.

Q. What was the difference between the double drum that Mr. Critchell worked on and the prior double drum? A. I don't know, myself.

Q. Did the double drum that Mr. Critchell worked on ever go into operation?

A. I think it did; I don't know; however, I think it did.

Q. That one did function?

A. It worked on the road up there.

Q. That one did function?

A. I never saw it operate.

Q. Did you learn that it was taken to Caribou?

A. The last time I saw it, it was crossing the Caribou Bridge.

Q. Where was it going?

A. It was starting to Caribou.

Q. And did it go to Caribou then? It did, didn't it? A. Yes, I believe it did. [1257]

Mr. Hunt: The Respondent Robinson rests.

Mr. Potts: The Respondent Long Lake Lumber Company rests.

Trial Examiner Hektoen: Is there anything further?

Mr. Walker: Nothing further.

Trial Examiner Hektoen: It is the pleasure of

(Testimony of James M. Brown, Sr.)

the Trial Examiner at this time to afford the parties, should they request [1258] it, an opportunity for oral argument.

In reference to such request, I take it that argument is waived.

It is also the pleasure of the Trial Examiner to afford the parties an opportunity to file briefs with him, should they so desire, within 15 days of today.

Mr. Potts: Does that mean for each side concurrently?

Trial Examiner Hektoen: Yes.

Mr. Hunt: We certainly want the opportunity to file briefs.

Trial Examiner Hektoen: They should be addressed to the Trial Examiner, in care of the Chief Trial Examiner, in Washington, D. C.

Mr. Potts: That is, to yourself as Trial Examiner in care of the Chief Trial Examiner?

Trial Examiner Hektoen: Right. There is one further announcement on the record, to the effect that any party may file a brief with the Board within 30 days of the date of the order transferring the case to the Board, which is done pursuant to Section 32 of the Rules and Regulations which you have before you, Mr. Potts.

Mr. Potts: Yes.

Trial Examiner Hektoen: In the absence of further business or motions, the hearing will be adjourned.

(Thereupon, at 11:05 o'clock a. m. March 21, 1940, the hearing was concluded.) [1259]



In the United States Circuit Court of Appeals  
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

v.

LONG LAKE LUMBER COMPANY and  
F. D. ROBINSON,  
Respondents.

CERTIFICATE OF THE NATIONAL LABOR  
RELATIONS BOARD

The National Labor Relations Board, by its Chief of the Order Section, duly authorized by Section 1 of Article VI, Rules and Regulations of the National Labor Relations Board—Series 2, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record in a proceeding had before said Board entitled, "In the Matter of Long Lake Lumber Company and F. D. Robinson and International Woodworkers of America, Local Union No. 119, affiliated with the Congress of Industrial Organizations," the same being Case No. C-1729, before said Board, such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

Full enumerated, said documents attached hereto are as follows:

(1) Stenographic transcript of testimony before



Josef L. Hektoen, Trial Examiner for the National Labor Relations Board, on March 11, 12, 13, 14, 15, 16, 18, 19, 20, and 21, 1940, together with all exhibits introduced in evidence.

(2) Copy of stipulation for the correction of the stenographic transcript, dated May 24, 1940.

(3) Copy of order for the correction of stenographic transcript, dated May 28, 1940.

(4) Copy of the Intermediate Report of Trial Examiner Hektoen, dated November 2, 1940.

(5) Copy of order transferring the case to the Board, dated November 18, 1940.

(6) Copy of respondent's, Long Lake Lumber, exceptions to the Intermediate Report.

(7) Copy of respondents, F. D. Robinson, exceptions to the Intermediate Report.

(8) Copy of union's exceptions to the Intermediate Report.

(9) Copy of union's motion to substitute "Local #239" for "Local #119", filed February 11, 1941.

(10) Copy of notice of aforesaid motion issued by the National Labor Relations Board May 22, 1941.

(11) Copy of order changing designation of labor organization, dated June 9, 1941.

(12) Copy of decision, findings of fact, conclusions of law and order issued by the National Labor Relations Board August 22, 1941, together with affidavit of service and United States Post Office return receipts thereof.

(13) Copy of respondent's, F. D. Robinson, pe-

tion for modification of the Board order dated August 22, 1941, sworn to December 13, 1941.

(14) Copy of order denying aforesaid petition, dated January 3, 1942.

In Testimony Whereof the Chief of the Order Section of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 6th day of February 1943.

[Seal]

JOHN E. LAWYER

Chief, Order Section

National Labor Relations

Board

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[Endorsed]: No. 10368. United States Circuit Court of Appeals for the Ninth Circuit, National Labor Relations Board, Petitioner, vs. Long Lake Lumber Company and F. D. Robinson, Respondents. Transcript of Record. Upon Petition for Enforcement of an Order of the National Labor Relations Board.

Filed February 12, 1943.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

In the United States Circuit Court of Appeals  
for the Ninth Circuit

No. 10368

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

v.

LONG LAKE LUMBER COMPANY AND  
F. D. ROBINSON

Respondents.

### PETITIONER'S STATEMENT OF POINTS

Pursuant to Section 6 of Rule 19 of the Court, the Board submits the following statement of points upon which it intends to rely in the Trial of the above-entitled case to the Court:

#### I

The Board's findings of fact are supported by substantial evidence. Upon the facts so found, respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (1), (3), and (5) of the Act.

#### II

The Board's order is wholly valid and proper under the Act.

Dated at Washington, D. C., this 6th day of  
February 1943.

ERNEST A. GROSS

Associate General Counsel  
National Labor Relations  
Board

[Endorsed]: Filed Feb. 12, 1943. Paul P.  
O'Brien, Clerk.